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CORPORAL PUNISHMENT IN THE SCHOOLS

HEARING

BEFORE THE

SUBCOMMITTEE ON JUVENILE JUSTICE

OF THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

SECOND SESSION

ON

OVERSIGHT ON CORPORAL PUNISHMENT IN SCHOOLS AND WHAT IS AN APPROPRIATE RANGE OF DISCIPLINE BY SCHOOL OFFICIALS

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CORPORAL PUNISHMENT IN THE SCHOOLS

WEDNESDAY, OCTOBER 17, 1984

U.S. SENATE,
SUBCOMMITTEE ON JUVENILE JUSTICE,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The subcommittee convened, pursuant to notice, at 9:35 a.m., in room SD-226, Dirksen Senate Office Building, Hon. Arlen Specter (chairman of the subcommittee) presiding.

Staff present: Mary Louise Westmoreland, chief counsel; Eva Carney, counsel; Tracy McGee, chief clerk.

OPENING STATEMENT OF HON. ARLEN SPECTER, A U.S. SENATOR FROM THE STATE OF PENNSYLVANIA, CHAIRMAN, SUBCOMMITTEE ON JUVENILE JUSTICE

Senator SPECTER. The Juvenile Justice Subcommittee of the Judiciary Committee will begin this hearing on corporal punishment in schools.

This hearing is one of a series of hearings on the subject of violence as it affects juveniles and on the subject of abuse of juveniles, and today, we are taking a look at one aspect as it relates to corporal punishment in schools, that is, the infliction of punishment on students where there may be a situation of student misbehavior, with our inquiry focusing on what is an appropriate range of discipline by school officials.

There are a number of States in the United States which prohibit corporal punishment by the school boards, and there are a number of cities which similarly prohibit corporal punishment. But by and large in the United States, the question of whether there ought to be physical punishment—that is, a whipping of a child in response to a disciplinary problem—that issue is left up to the local school board, and it is not a matter easy to resolve in terms of disciplinary problems in schools in response to specific situations.

The Office of Juvenile Justice and Delinquency Prevention, a branch of the Government over which this subcommittee has oversight, has been looking at the problem of violence in schools generally, and this issue of corporal punishment is one which falls under the general ambit of those considerations.

We have a distinguished panel of experts this morning, and we are going to start off with Miss Shelly Gaspersohn, who is accompanied by her mother, Marlene, from Dunn, NC. Would you please step forward?

Miss Shelly Gaspersohn, as I understand it, has, as a student, been subjected to certain corporal punishment with a wooden

paddle and has had an experience which brings into sharp focus the kind of considerations which are involved in this issue as to corporal punishment in school.

Welcome, Miss Gaspersohn and Mrs. Gaspersohn. We appreciate you being with us.

Let us start with you, Shelly, if we may. First of all, would you tell us how old you are?

STATEMENT OF MISS SHELLY S. GASPERSOHN, DUNN, NC, ACCOMPANIED BY HER MOTHER, MRS. MARLENE L. GASPERSOHN

Miss GASPERSOHN. I am 20 years old.

Senator SPECTER. And this experience occurred several years ago, when you were 17?

Miss GASPERSOHN. Yes, sir.

Senator SPECTER. What school were you attending at that time?

Miss GASPERSOHN. Dunn High School in Dunn, NC.

Senator SPECTER. All right. In your own way, proceed to tell us what occurred.

Miss GASPERSOHN. OK. Mr. Chairman, first, I would like to thank you for inviting me here to speak on the issue of corporal punishment.

It was in December 1981, when I skipped school for the first time since I had been in school at all. When I returned to school the next day, I was put in a program called In-School Suspension. In that program, the teachers are to bring you your schoolwork and give you homework, so you can keep up with your studies. I was put in In-School Suspension for 6 days, and I stayed there for 3 days. In that time, I did not receive the homework that I needed to keep up with my studies, and I became concerned about that, because I was a delegate for a scholarship at the University of North Carolina.

I spoke to the assistant principal at the school about this, and he told me that he was not involved with the teachers and was not responsible for their duties. And I asked him for an alternative to the punishment they had given me, and he told me that I could receive corporal punishment as the alternative. He told me that it would be three thrashes for each day that I would get out early, which would be nine for the 3 days I would get out early.

The next day, I went to see him to get that alternative, and he said he would cut it down to six—just to be nice, I suppose. I do not know.

I received the beating. I could not take all six of them at one time. It was about two at a time, because the pain was so terrible.

Senator SPECTER. When you say you took the beating, who was it who inflicted the punishment?

Miss GASPERSOHN. The assistant principal.

Senator SPECTER. And what did he use to inflict the punishment?

Miss GASPERSOHN. It was a wooden paddle, I would say about so long, and about that wide.

Senator SPECTER. You are describing a paddle about 2 feet long and about 6 inches wide.

Miss GASPERSOHN. That is right.

Senator SPECTER. And how thick?

Miss GASPERSOHN. A quarter-inch, I would imagine.

Senator SPECTER. And where were you struck?

Miss GASPERSOHN. On my buttocks.

Senator SPECTER. And what position were you in when you were struck?

Miss GASPERSOHN. I was leaning onto a counter top, bent over, and he was standing behind me.

Senator SPECTER. You were struck in the buttocks, leaning over a counter top, and he stood behind you and had a board about 2 feet by 6 inches by 2 inches in thickness?

Miss GASPERSOHN. That is correct.

Senator SPECTER. And how many times were you struck?

Miss GASPERSOHN. Six times.

Senator SPECTER. Six times—all at once?

Miss GASPERSOHN. No; two at a time. And there were two other girls also being beaten at the same time, and we alternated in between the three of us, two beatings at a time.

Senator SPECTER. So you were struck twice, and then there was an interval of time, and then you were struck twice again?

Miss GASPERSOHN. That is correct.

Senator SPECTER. And there was a second interval of time, and you were struck twice after that?

Miss GASPERSOHN. Yes, sir.

Senator SPECTER. And how many other young women were being subjected to the same punishment at that time?

Miss GASPERSOHN. There were two others.

Senator SPECTER. And what had they done, if you know?

Miss GASPERSOHN. They had also skipped school. However, it wasn't for the first time.

Senator SPECTER. Now, you had skipped school, which led to this punishment?

Miss GASPERSOHN. Yes, sir.

Senator SPECTER. And how many times had you skipped school?

Miss GASPERSOHN. This was the first occasion.

Senator SPECTER. On one occasion, you skipped school for how many days?

Miss GASPERSOHN. One day.

Senator SPECTER. One day. What was your reason for skipping school on that day?

Miss GASPERSOHN. Well, the girl that I rode with to school had a problem with her boyfriend—she was one of the other girls who skipped school—and I told her I would leave school with her and go find her boyfriend.

Senator SPECTER. So, you spent the day with your girlfriend, who had a problem with her boyfriend?

Miss GASPERSOHN. Yes, sir.

Senator SPECTER. And the first punishment which was given to you was a suspension from school—for how many days, again?

Miss GASPERSOHN. That was an In-School Suspension, for 6 days. It was a program where you would go into the classroom and stay there all day, and the teachers brought you your schoolwork into this one classroom. It was isolation from the rest of the school.

Senator SPECTER. But you found that unsatisfactory because you could not keep up with your scholarship program?

Miss GASPERSOHN. I could not keep up with my work. I was not getting my homework, and I was sitting in the classroom doing practically nothing.

Senator SPECTER. Why weren't you getting your homework to do? Why couldn't that be worked out?

Miss GASPERSOHN. Well, the teacher that was the head of the room was to get the assignments, and for a couple of days she was out. We had a substitute, and she really did not know what she was doing. I did get some homework, but it just wasn't enough. And I also had a calculus course at that time, where there were only three other students besides me in that class, and they went relatively fast in the course, and without a teacher, I was falling behind; I really could not teach the calculus to myself.

Senator SPECTER. Did you discuss this decision to have corporal punishment as an alternative—did you discuss that with your parents before doing that?

Miss GASPERSOHN. Yes, I did, and they told me under no circumstances to do it. I talked to them about it after the second day, and they said not to do it, and I went back and still, after getting no assignments, I decided on my own to go ahead and get it.

Senator SPECTER. So you disregarded your parents' instruction on it?

Miss GASPERSOHN. That is right.

Senator SPECTER. Did the school officials confer with your parents before administering the corporal punishment?

Miss GASPERSOHN. No, they did not.

Senator SPECTER. How big was the assistant principal who did the whipping?

Miss GASPERSOHN. I would say about 6'-2", 200 pounds. He is an assistant football coach.

Senator SPECTER. An assistant football coach, and a pretty big man.

Miss GASPERSOHN. Yes, sir.

Senator SPECTER. And you took two of those whacks at a time?

Miss GASPERSOHN. Yes, sir.

Senator SPECTER. You were fully clothed at this time?

Miss GASPERSOHN. Yes, sir.

Senator SPECTER. How did it feel?

Miss GASPERSOHN. I had never, ever been hit like that before. It was the worst pain I have ever felt in my life. I felt violated.

Senator SPECTER. Did you protest?

Miss GASPERSOHN. Yes, I did.

Senator SPECTER. What did he say?

Miss GASPERSOHN. He said I could go back to In-School Suspension, but that would not resolve my problem, so I went ahead with it.

Senator SPECTER. And you took six of those whacks all on the same day?

Miss GASPERSOHN. Yes, sir.

Senator SPECTER. Did you sustain any injuries as a result of that beating?

Miss GASPERSOHN. Yes, I did.

Senator SPECTER. What injuries?

Miss GASPERSOHN. My buttocks were bruised for nearly 3 weeks, and it also caused me to hemorrhage. I was on my menstrual cycle at the time, and it caused me to hemorrhage for the next 2 days.

Senator SPECTER. Internal hemorrhaging?

Miss GASPERSOHN. External.

Senator SPECTER. Did you see a doctor?

Miss GASPERSOHN. Yes, I did.

Senator SPECTER. And what diagnosis did the doctor make?

Miss GASPERSOHN. Well, he gave me estrogen to stop the bleeding, and as a result of the bruises that he saw, he contacted Social Services and charged child abuse on the assistant principal. He is the county medical examiner of child abuse cases.

Senator SPECTER. The doctor that you went to see was the assistant county medical examiner for child abuse cases?

Miss GASPERSOHN. He was the county examiner for child abuse.

Senator SPECTER. He was the examiner for child abuse cases, and he filed a child abuse complaint against the school official who inflicted the whipping?

Miss GASPERSOHN. That is correct.

Senator SPECTER. And what happened as a result of that?

Miss GASPERSOHN. Social Services just told him that they could not be involved in school cases, that only if a parent had done that would they be able to intervene.

Senator SPECTER. So Social Services said that they could intervene if a parent inflicted the whipping, but not if a school official inflicted the whipping?

Miss GASPERSOHN. That is correct.

Senator SPECTER. Did they give any justification for that that you know about?

Miss GASPERSOHN. Not that I know of. There is no agency that can investigate a charge of child abuse against a public school teacher. The board of education locally is the only agency with authority to investigate.

Senator SPECTER. What happened next on the sequence, Shelly?

Miss GASPERSOHN. We went to the county school board and asked to have the assistant principal disciplined and to try to change the policies on corporal punishment so this would not happen to other children. They investigated, and a few months later, told us that they had found no wrongdoing on his part.

Senator SPECTER. They had found what?

Miss GASPERSOHN. That the principal had not done anything wrong; that that was policy.

Senator SPECTER. The school board made that determination?

Miss GASPERSOHN. Yes, sir.

Senator SPECTER. That it was school board policy that he was acting under, and he had done nothing in violation of existing school board policy.

Miss GASPERSOHN. That is correct.

So, in May 1982, we brought a suit against the Harnett County School Board and Glenn Varney, the assistant principal.

Senator SPECTER. You filed a lawsuit.

Miss GASPERSOHN. Yes, sir. My parents filed that lawsuit, and I took it over in October 1982, when I turned 18. And it did not come to trial until December 1983. At that time, we had a week-long jury

trial. The judge did not allow the medical examiner to testify, his findings on child abuse. He had the jury out of the room at that time and disallowed that information to be heard. And after about 10 minutes of deliberation, the jury found no wrongdoing on the part of the school board or the assistant principal.

Senator SPECTER. Mrs. Gaspersohn, how did you feel about all this?

STATEMENT OF MRS. MARLENE GASPERSOHN

Mrs. GASPERSOHN. I was completely devastated. To think that an honor student, on the first violation of any rule in the 12½ years of her life to that point, would be treated so severely was just beyond our comprehension. We just could not even talk about it, it was so hurtful—it still hurts to talk about it.

Senator SPECTER. Your daughter, Shelly, had always been a model student——

Mrs. GASPERSOHN. Always.

Senator SPECTER [continuing]. And had never broken any of the school rules?

Mrs. GASPERSOHN. Never; not once.

Senator SPECTER. And when did you first find out about the infraction of missing school for the single day?

Mrs. GASPERSOHN. I found out about it that day. I was contacted at work by the female assistant principal of the school. She asked me where Shelly was, and I told her that Shelly was at school. I had seen her leave. And she said, "No, she isn't there. We have checked, and she is skipping school."

I said, "Well"—I guess I was kind of flippant about it—I said, "I guess she is human after all," because as I said, until that time, she had never, ever done anything wrong in school.

And the assistant principal said, "What do you mean?"

And I said, "Well, I skipped school once. It scared me to death when I did, but I think most people have done that."

And she said, well, she had never.

And I said, "Well, do not be concerned about it. My husband and I will certainly deal with the problem." And I went home early from work that day, at the time Shelly would normally come home from school. And she was there, and I asked her where she had been, and she told me that she had skipped school, and where she had been and what she had been doing.

So my husband and I grounded her for 2 weeks for that infraction of the rules.

Senator SPECTER. What did you do to her for 2 weeks?

Mrs. GASPERSOHN. We grounded her.

Senator SPECTER. And what do you mean by "grounding" her?

Mrs. GASPERSOHN. She could have no privileges. She could only go to school and to church and carry out the normal functions——

Senator SPECTER. When you say "no privileges"—no dating, no movies?

Mrs. GASPERSOHN. No dating, no movies.

Senator SPECTER. Was she dating at that time?

Mrs. GASPERSOHN. Yes, she was, sir. She was a senior.

Senator SPECTER. So, you suspended her from privileges for 2 weeks, and you felt that that was an appropriate parental response to what had happened?

Mrs. GASPERSOHN. I certainly did, and I still do.

Senator SPECTER. Did Shelly complain to you about what was happening to her when she was suspended during the course of school and could not keep up with her work?

Mrs. GASPERSOHN. Yes, sir, she did.

Senator SPECTER. But she did not discuss with you the alternative of the whipping?

Mrs. GASPERSOHN. After the second day of being in In-School Suspension and not receiving her assignments, yes, she did say that she had an alternative of taking corporal punishment. And we told her not to do that.

Senator SPECTER. And the next thing you knew, she had made the decision on her own, and had taken it?

Mrs. GASPERSOHN. Yes, sir.

Senator SPECTER. Mrs. Gaspersohn, do you think there is any circumstance under which school officials would be justified in inflicting corporal punishment on students for any kind of student misbehavior?

Mrs. GASPERSOHN. I used to think that they had that right, but after experiencing the trauma that it can create, I have changed my mind completely about it.

Senator SPECTER. Can you be a little more expansive in describing the trauma which this incident did create for your daughter and your family?

Mrs. GASPERSOHN. Well, I could not look at Shelly without crying—ever. [Pause.] Excuse me.

Senator SPECTER. Take a minute, Mrs. Gaspersohn.

Mrs. GASPERSOHN. I felt responsible, myself, for putting her into a situation where she could not be protected from being beaten up. When children are in school, you expect that there is a possibility that they can be beaten up by another child. But to have that same thing happen, in the name of education, by a grown man, who looks like a weight-lifter, who has a very overdeveloped upper body, and see her under the stress and tension—and what she has not told you is that right after this happened, she had a complete personality change. She did not want to go to school. She did not want to go to church. [Pause.] I am sorry.

Senator SPECTER. Take your time, Mrs. Gaspersohn, take your time.

Let me ask you, Shelly, while your mother composes herself for just a minute, why did you feel that way? Why did you undergo that personality change, as your mother has just described it, refusing or not wanting to go to school, not wanting to go to church?

Miss GASPERSOHN. Well, as far as school goes, I just lost interest. I felt like it was not a learning place anymore, that it was more of a prison than it was education.

Senator SPECTER. How about church?

Miss GASPERSOHN. I do not know. It was really strange. But Sunday school was a classroom atmosphere. I just stopped doing many of the things I used to do—going out, going to church, and teaching flute. I even stopped doing that for a little while.

I had nightmares a lot.

Senator SPECTER. Tell me about that.

Miss GASPERSOHN. Well, between the time of the beating and, well, for the next 3 years, I have had nightmares about the principal and the assistant principal, not necessarily hitting me, but I had some nightmares of them chasing me and trying to kill me.

Senator SPECTER. Have those nightmares stopped?

Miss GASPERSOHN. Well, they have stopped for the most part.

Senator SPECTER. Have you snapped out of your period of depression, so to speak, and you are back at church, back in school? You are doing all right now?

Miss GASPERSOHN. Yes, I have, but I do have those nightmares every once in a while. It's hard to say when they do——

Senator SPECTER. You went ahead and finished your high school career, though, you graduated?

Miss GASPERSOHN. Yes, sir.

Senator SPECTER. And what are you doing now?

Miss GASPERSOHN. I am majoring in electronic engineering.

Senator SPECTER. Where?

Miss GASPERSOHN. At Wake Technical College in Raleigh, NC.

Senator SPECTER. Mrs. Gaspersohn, tell me just a little bit more about your shift in thinking from the time, as you describe it, where you had felt that corporal punishment was appropriate, to the change occasioned by what happened to your daughter.

Mrs. GASPERSOHN. Well, I always assumed that corporal punishment would be inflicted on a child of mine in the same manner that I as a parent would have inflicted it. And I found that not to be true. And, as I started to say, Shelly also started having neck and back spasms, muscle spasms, and she required medical attention.

Senator SPECTER. This immediately followed the whipping?

Mrs. GASPERSOHN. Immediately following, yes. And she had never had any trouble.

Senator SPECTER. How long did that last?

Mrs. GASPERSOHN. It has lasted intermittently for the past 3 years.

Senator SPECTER. Does it still bother you, Shelly?

Miss GASPERSOHN. Just when I get tense or am under stress.

Mrs. GASPERSOHN. Mostly when she is talking about what happened to her.

Senator SPECTER. Well, thank you very much for this testimony.

Shelly, what is your view on corporal punishment? Had you ever thought that it would be appropriate in a school setting for school officials to discipline a child by whipping?

Miss GASPERSOHN. Yes, I used to. But like I say now, there isn't any way to protect children in school, I do not think, especially when the local school boards act autonomously in writing their own rules for corporal punishment.

Senator SPECTER. What do the other students in your school think about these whippings?

Miss GASPERSOHN. I really could not tell you.

Senator SPECTER. How about the other girls who were disciplined the same day you were?

Miss GASPERSOHN. Well, one girl testified for me in my trial, and I think she may have not really thought about it since it happened, and when she was on the stand, she broke up.

Senator SPECTER. Did anybody sustain permanent injuries as a result of being hit by the board, to your knowledge?

Miss GASPERSOHN. Well, mentally, is the only thing I know. The other girl who testified for me, I know she is under great stress.

Senator SPECTER. Is there anything you care to add, Mrs. Gaspersohn?

Mrs. GASPERSOHN. No one really is concerned about the safety of children in North Carolina schools. North Carolina has 144 autonomous boards of education.

In 1981, Gov. Jim Hunt appointed a "Governor's Advocacy Council on Children and Youth" to investigate school discipline policies in North Carolina [see enclosed report]:

Fifty eight percent of the 144 school boards responded to the council's questionnaire;

Twenty three percent of those responding did not have codes of conduct which conform to requirements of the law;

Forty eight percent did not have disciplinary policies and procedures which insure due process to students;

Sixty six percent did not have complete written policies on corporal punishment;

Sixty percent allow principals to suspend or corporally punish students for violation of rules imposed only by that principal and not the school board;

It does not surprise me that children are abused by teachers when there are no laws to restrict such abuse;

Parents who complain of abusive treatment are harrassed and intimidated by school officials and their loyalties are questioned by much of the community; and

A California survey in 1984 showed that for every 7 families who went to court over corporal punishment or other abuse, 63 were stopped at the school board level and 535 were mollified by the superintendent. [Source: Wilson Riles Jr. "Administration of Corporal Punishment in the California Schools" California State department of education 1974.]

No such survey has been conducted in North Carolina, but from my own experience of how they tried to intimidate us as well as my own knowledge of things that have happened to others, I would say that intimidation in North Carolina runs even higher. That, coupled with the fact that no agency except the local school board can investigate a charge of child abuse against a teacher makes them totally beyond the reach of the law that regulates rules on other child abusers. Case law in North Carolina [*State* v. *Pendergrass* 1837] makes a permanent bodily injury or proof of malice the condition for child abuse charges against a public school teacher.

Well, I think that a lot of boards of education have rules and regulations that comply with Federal and State law. They have that in Harnett County. But point by point, in the disciplining of Shelly they ignored every, single, solitary point of the board of education's rules.

Senator SPECTER. And what do you mean by the items that they ignored?

Mrs. GASPERSOHN. Pardon?

Senator SPECTER. What did they ignore in the situation with Shelly?

Mrs. GASPERSOHN. Can I read the policy?

Senator SPECTER. Go ahead.

Mrs. GASPERSOHN. OK. The policy on corporal punishment—and this is taken from page 151 of the Teachers' Handbook of Harnett County, NC—"The Board, in its support of the use of corporal punishment in disciplinary control prohibits such action as a primary means of discipline. Corporal punishment shall be a secondary resort in the disciplinary procedure after other disciplinary measures have been applied and found ineffective."

And on that point, this was Shelly's first infraction, and so it was not a last resort. It was used as the primary means of disciplining her.

"Before corporal punishment is to be used, a copy of the school disciplinary code must be provided each student"—so the Student Handbook of the Harnett County schools does not even mention corporal punishment. "That code must be posted in each classroom informing the students of those inappropriate behaviors that may result in the use of corporal punishment." There was not, in the 3½ years that Shelly attended Dunn High School, any notice anywhere of what measures might result in corporal punishment.

"An adult witness must be present when corporal punishment is administered." There was no adult witness in the room when she was corporally punished.

"The witness must be informed, in the presence of the student receiving corporal punishment, of the reasons for the corporal punishment." There was no witness, so there was no informing, either.

"The teacher or principal must provide the parent a written report upon request of the circumstances and events leading up to and including the corporal punishment administered."

Now, we requested in writing that we have that report, and they finally gave it to us just a few days before the trial, so it was 2 years later. And the really ironic thing of this is that, had Shelly been a boy, she would have been offered a nonviolent alternative to In-School Suspension.

Senator SPECTER. Such as what?

Mrs. GASPERSOHN. Raking leaves. And I have here——

Senator SPECTER. But, since she was a young woman, she was not given the alternative of raking leaves?

Mrs. GASPERSOHN. Yes, sir. I have here page 36 of the deposition of Glenn Varney, starting at the 13th line, when our attorney asked him: "Is there any way to get out of In-School Suspension other than taking the paddle?"

ANSWER. "Yes."

QUESTION. "How is that?"

ANSWER. "To my recollection, we let the students out for—male students out for, raking leaves, as an alternative punishment."

QUESTION. "Chores around the school?"

ANSWER. "Raking leaves would go under chores around the school. But the only thing I can remember is raking leaves."

QUESTION. "Were these girls offered this alternative?"

ANSWER. "No, because it's not good practice to put girls out on—you just don't do it."

Now, I can say that Shelly has raked leaves since she was old enough, tall enough, to handle a rake. She does it very well. I think that is definitely sexual discrimination. The whole thing has been so unfair.

Senator SPECTER. Mrs. Gaspersohn, do you have any thought as to why you lost your lawsuit?

Mrs. GASPERSOHN. Oh, yes.

Senator SPECTER. Why?

Mrs. GASPERSOHN. Because the judge was very biased in his treatment of the case.

Senator SPECTER. Do you think there was error in excluding the doctor——

Mrs. GASPERSOHN. Oh, most definitely.

Senator SPECTER. Did you consider taking an appeal from the judge's ruling?

Mrs. GASPERSOHN. It has been appealed.

Senator SPECTER. Oh, it is under appeal now?

Mrs. GASPERSOHN. Yes, sir, it is.

Senator SPECTER. And that is pending?

Mrs. GASPERSOHN. It was filed October 1.

Senator SPECTER. So it is going through the supreme court of North Carolina—or the appellate court?

Mrs. GASPERSOHN. The appellate court, yes, sir.

Senator SPECTER. Is there anything you would care to add, Shelly?

Miss GASPERSOHN. No.

Senator SPECTER. Do you agree with your mother that you were a good leaf raker?

Miss GASPERSOHN. Yes.

Senator SPECTER. All right. I thank you very much.

[The prepared statement of Mrs. Gaspersohn and additonal material follow:]

PREPARED STATEMENT OF MARELENE L. GASPERSOHN

MOTHER OF SHELLY S. GASPERSOHN

I cannot begin to elaborate on the personal trauma and anguish my husband and I have felt as parents not being able to protect our daughter, Shelly, from the severe beating she received at the hands of Glenn Varney, Assistant Principal/ Assistant Football Coach at Dunn High School, Dunn, NC

Not only is there no way to prevent such abuse but, after the fact, no one can or will do anything about it.

1. Every Board of Education in NC acts autononcusly and does not necessarily conform their rules to state and federal law.

2. There is no policing agency to see to it the Boards of Education comply with state and federal law.

3. The State Board of Education only makes recommendations and has no authority over local school boards.

4. There is no state agency that can even investigate a charge of child abuse against a teacher - only the local school board can investigate.

5. If a child is injured by a teacher, different laws apply than those applied to parents and or guardians who would abuse the child.

6. N. C. case law (State vs. Pendergras - 1837) makes a permanent bodily injury or malicious intent the basis for charging child abuse against a teacher.

In recent times we have all become aware that there are child abusers in every walk of life. However not only has their existance in the field of education not been acknowledged but a haven for such people is provided by law in most states.

I can speak from my own experience only of North Carolina; but I have read about and been in contact with other parents from NC and other states who have had similar exasperating tales of unjust and brutal treatment of their children at the hands of their "educators."

There is a professional unwillingness on the part of educators to admit such incidents occur. I know this to be true from our own experience. The best way to deny they happen is to not acknowledge the incident, play down its significance when the news media does hear of it, cover-up with lies and insults and try to turn public opinion against the child-victim and his/her family by branding them "trouble-makers."

In Shelly's case every rule and law of North Carolina and the Harnett County Board of Education was ignored and/or broken. See Policy on Corporal Punishment from Harnett County Teachers' Handbook.

1. Shelly was corporally punished for her first offense ever in 13 years of public school, so it was the primary means of discipline. (ref. paragraph 2)

2. In the student handbook there is no reference to what specific offenses can result in corporal punishment.

3. No notices are posted anywhere in the school appraising students of what infractions may result in corporal punishment. (ref. paragraph 2)

4. No adult witness was present in the room. (he said he was

standing outside the door talking to another student and no one saw him. (ref. paragraph 3)

5. Since no witness was present, he could not and was not informed in the presence of Shelly the reasons for the corporal punishment. (ref. paragraph 3)

6. The written report that must be filed with the principal was neither signed nor dated the morning after her beating. (ref. paragraph 3)

7. The principal would not provide us personally or our attorney a copy of the report until a few days before the trial (2 years later) even though it had been requested in writing. (ref. paragraph 3)

8. An alternative discipline to corporal punishment of raking leaves would have been offered to Shelly had she been a boy. (see page 36 - Deposition of Glenn Varney) there we charge sexual discrimination.

The day after her corporal punishment I took Shelly to Dr. John Smith, Medical Examiner of near-by Sampson County. Not only was Shelly badly bruised, the beating had caused her menstrual flow to turn into hemorrhaging.

After examining her Dr. Smith called Harnett County Social Services and reported Glenn Varney as a child abuser. He was informed that there is no agency in North Carolina that has authority to investigate the charge of child abuse against a public school teacher. It is classified as a "school matter" and must be dealt with by the local Board of Education.

The Board of Education had already met for their once-a-month December meeting so we could not bring a grievance before the board until January, we were told.

In January there was not time enough to prepare since they said then we must make the request in writing 2 weeks prior to the meeting.

Shelly had begun immediately after the beating to withdraw from family activities, didn't want to go to school or church and developed back and neck spasms that required medical attention and caused her to miss quite a bit of school.

By February we were ready to present our grievance to the Board, but were told they couldn't hear us that month because of a reception after the meeting for a retiring teacher meant they would have no executive session after the regular board meeting.

So it was March 1982 before our attorney, Renny Deese was allowed to make our presentation of grievance. (The beating had taken place December 8, 1981.) Up to that time no reference had been made of the 3 girls having been beaten and I realized it would all be covered up if I did not inform the local press. That is how the notariety began.

The school board listened that night and said they would investigat and inform us of their findings.

Two months passed. Just before Shelly was to graduate (with honors) from Dunn High School, the board's attorney announced that their findings were that there was no wrong doing on the part of Dunn High School Assistant Principal/Assistant Football Coach, Glenn Varney.

We feel that the Board of Education thought we would let it end there wince Shelly would no longer be a part of the school system. She was graduating and leaving for the summer music program at the University of the South and then go on to the University of North Carolina at Greensboro where she planned to major in music.

It was at this point we filed suit against Glenn Varney for

corporally punishing our daughter and the Harnett County Board of Education for affirming his actions.

It was not until one year later I learned of the personal trauma Shelly had been living with that h ad been caused by her beating at the hands of Glenn Varney.

Although my husband and I had on occasion both corporally punished our children when they were small, our home-life was loving and Christ-centered. Our daughters had never been "beaten" in the manner Glenn Varney beat Shelly. Our lives have always revolved around the teachings of the Lutheran Church where family unity, love, the joy of celebrating the best of what God has given us to work with and being as obedient to God and parents as we possibly can was taught. Music and the arts have always been central also in the upbringing of our children. Had we been aware of the trauma that can result from corporal punishment, we would never have used it on our children. As a result of Shelly's trauma, our married children do not corporally punish our grandchildren.

Shelly was the most goal-oriented of all our children. She had never wanted anything more from life that to be a professional flutist. She was (and still is) a very talented one.

One way the beating has changed Shelly's life is: Afraid of not having enough talent to excel as a performer of flute music (even though she was 1st chair flute with graduate flute majors sitting 2nd and 3rd chairs; was carrying a 3.6 G.P.A. in her Freshmen year; had been asked to be THE FLUTIST for the Woodwind Ensemble for her up-coming Sophomore year) and afraid she would have to resort to going into the teaching profession as her life's work, Shelly abruptly quit college at the end of her Freshmnen year.

It was at this point we learned of Dr. Irwin Hyman and the National Center for the Study of Corporal Punishment and its alternatives.

Shelly and I attended a seminar Dr. Hyman conducted on May 20, 1983 in Goldsboro, NC After the seminar Dr. Hyman began an evaluation of Shelly and her nightmares and fears of men who resembled Glenn Varney. Not having enough time to complete an evaluation there, we sent Shelly to Philadelphia on June 9, 1983 to complete her tests.

Dr. Hyman found her to be suffering from post traumatic stress disorder (similar to rape victims or soldiers with terrible war experiences) and recommended she receive therapy.

Shelly began therapy at the end of June 1983 and continued until her therapist moved to Virginia in March of this year.

She is back in school now studying the furthest thing from music that there is -- electronic engineering.

In the week long civil trial that resulted from our lawsuit charging now that Shelly does have a permanent (mental) injury as North Carolina requires for a charge of child abuse against a public school teacher (State vs. Pendergras 1837) Dr. Smith was not allowed to state his findings of child abuse -- even though as County Medical Examiner that is one of his primary judgemental duties.

Dr. Irwin Hyman was not allowed to define his findings of post traumatic stress disorder.

After a less than 10 minute deliberation the jury found the Harnett County Board of Education and Glenn Varney not guilty of using cruel and unusually harsh punishment against Shelly.

At present we are appealing this decision claiming that Glenn Varney did not act within lawful authority (defense attorneys agreed to this and claimed no contest).

State vs. Pendergras states that corporal punishment must be exercized "within lawful authority." Since by their own admission the rules set down by the Board of Education and the State of N. C. were not followed, we contend that Glenn Varney acted outside of lawful authority and by affirming his action, both he and the Board of Education are guilty as charged.

Policy On Corporal Punishment

The Harnett County Board of Education supports the use of corporal punishment by teachers, principals, and other school personnel who have been assigned the responsibilities for supervision of students by the principal in their effort to maintain good disciplinary control at school. School personnel are permitted by State Law (G.S. 115-146) to use reasonable force in their disciplinary control.

The Board in its support of the use of corporal punishment in disciplinary control prohibits such action as the primary means of discipline. Corporal punishment shall be a secondary resort in the disciplinary procedure after other disciplinary measures have been applied and found ineffective. Before corporal punishment is to be used, a copy of the school disciplinary code must be provided each student and posted in each classroom informing the students of those inappropriate behaviors that may result in the use of corporal punishment.

An adult witness must be present, when corporal punishment is administered. The witness must be informed, in the presence of the student receiving corporal punishment, of the reasons for the corporal punishment. A written report must be filed with the principal by the end of the school day on which the said punishment is given. The teacher or principal must provide the parent a written report upon request of the circumstances and events leading up to and including the corporal punishment administered.

(Book 13: Page 11, July 7, 1975)

Pupil Pregnancy

A pregnant pupil may remain in school and participate in all activities as long as her health permits. When the pupil drops out of school, she is considered homebound and coded 2-H in the register until she returns to school when she is physically able after childbirth.

Compulsory Attendance for Married Students

A letter dated October 17, 1966, from Ralph Moody, Deputy Attorney General, and addressed to Robert B. Morgan, Attorney for the Board of Education, gives the following ruling:

A pupil who is old enough to be legally married, and in this particular case a married girl, is emancipated and is no longer subject to the provisions of the Compulsory Attendance Law.

Policy for High School Students to Take College Courses

The Harnett County Board of Education approves the plan for high school students to take college courses during the regular school term for college credits under the following conditions:

1. Students who wish to enroll in institutions of higher education while enrolled in a Harnett County High School must maintain the status as full-time high school students. The students must take a minimum of four high school courses.

Q YES.

A IT'S NOT IN THERE.

Q DOES IT SAY ANYTHING ABOUT ANY OFFENSES, FOR WHICH LICKS WILL BE ADMINISTERED?

A NO.

Q DOES IT SAY ANYTHING ABOUT THE CHOICE THAT THE STUDENTS HAVE, TO TAKE THE PADDLE IN LIEU OF "ISS", AFTER BEING THERE A DAY?

A NO.

Q IS THE DECISION TO TAKE THE PADDLE, OR NOT TAKE THE PADDLE, COMPLETELY ONE OF THE STUDENTS?

A YES.

Q IS THERE ANY WAY TO GET OUT OF "ISS", OTHER THAN TAKING THE PADDLE?

A YES.

Q HOW IS THAT?

A TO MY RECOLLECTION, WE LET THE STUDENTS OUT FOR--MALE STUDENTS OUT FOR, RAKING LEAVES, AS AN ALTERANTIVE PUNISHMENT.

Q CHORES AROUND THE SCHOOL?

A RAKING LEAVES WOULD GO UNDER CHORES AROUND THE SCHOOL. BUT, THE ONLY THING I CAN REMEMBER IS, RAKING LEAVES.

Q WERE THESE GIRLS OFFERED THIS ALTERNATIVE?

A NO, BECAUSE IT'S NOT GOOD PRACTICE TO PUT GIRLS OUT ON--YOU JUST DON'T DO IT.

SCHOOL DISCIPLINE POLICIES IN NORTH CAROLINA

By Pam Holland
Margot Roten

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FOREWORD

This report is about discipline in the public schools in North Carolina. It is about one small but important aspect of school discipline--what the rules are. We decided to study "what the rules are" because we felt that discipline may be less of a problem when:

1. There are written rules.
2. The rules are clear and understandable.
3. The rules are legal and therefore enforceable--they conform to state and federal laws and will be upheld by the courts.

Discipline is a perennial problem in our schools. This is true in North Carolina and in the nation at large. In a recent survey of 13,800 school teachers and administrators in North Carolina, 75 percent said their students had a poor attitude toward learning. In the 1981 Gallup Poll on the public schools, school discipline was again rated among the top three concerns of parents and citizens.

Students who are discipline problems are usually doing poorly in school. Discipline problems are most prevalent in grades 7-9, among young adolescents. Failure rates are highest in these grades, also, ranging from 8-12 percent in grades nine, 10, and 11, compared to an average of 4 percent for all grades K-12. Almost a third of the young people who enter ninth grade each year fail to graduate from 12th grade four years later. The reasons and conditions that lead them to drop out at age 16 or later usually exist before 10th grade. At home, relations between parent and child are typically at their lowest ebb in grades 7-9.

Students who are discipline problems may be punished by being suspended from school. Others may "drop out" or "suspend" themselves by playing hooky. Others may be punished by in-school suspension, corporal punishment, or "a visit to the principal's office".

Guidance counselors, who often deal with unruly students, are in short supply in North Carolina. There are only 1,300 statewide for the state's 2,000 public schools, or one counselor for every 923 students.

The number of students involved in discipline problems and related conditions is significant.

About 30,000 students drop out each year.

About 80,000 are absent each day (only 2,000 of these, it is estimated, due to illness).

About 43,000 are suspended each year for a few hours or a few months.

Unfortunately, there is no state requirement for schools to keep records on the number of students who are disciplined through corporal punishment, in-school suspension, etc.

Students who are absent from school because of discipline problems cost their local school systems money. There is no data for North Carolina, but a study published in Georgia in 1981 estimated that for every day lost per student,

the local school system lost $8 in state and federal funds. In 1980, for example, the Fulton County school system, which includes Atlanta, lost $53,760 for suspensions, $1.19 million for dropouts, and $1.39 million for absences other than illness.

There are many reasons for discipline problems. Some may arise from things the student brings to school with him: handicapping conditions, poor attitudes, etc. Some may arise from what the school provides: inadequate classroom facilities, inappropriate instructional materials, etc. Our report does not address these conditions, and it does not assess whether or not the schools are fairly enforcing the policies they have adopted.

One thing that could reduce discipline problems, we feel, is having "what the rules are" clearly understood by students, parents, teachers, and administrators. Students cannot obey rules that are not known, and parents cannot support rules that are vague, illegal, or nonexistent.

In the spring of 1981, GACCY surveyed all 144 local school districts (merger has now decreased the total to 143 as of late 1981) and asked for copies of their written policies on student codes of conduct, suspension and expulsion of students, corporal punishment, and amount of discretion given to principals in suspending students. Responses from 83 school districts, or 58 percent of the total, were received and analyzed for compliance with the law. School districts were grouped to indicate which have policies that are in compliance with state and federal laws, which are questionable, and which are clearly illegal. The 61 school districts that did not respond will be surveyed again in the fall, along with the Department of Human Resources schools.

It is important to note that this study has not assessed whether or not the policies are actually being carried out, it merely examined what the policies are as stated by school officials.

The results of this survey were presented to GACCY in March 1982. The council reviewed the findings and adopted the recommendations set forth in the Executive Summary.

The council expresses its appreciation to Pamela Holland of the GACCY staff and Margot Roten, GACCY staff attorney, for their work in planning and conducting the study.

Herb Stout
Chairman, GACCY

April 1982

EXECUTIVE SUMMARY

The issue of how and when to discipline students in the public schools affects both the students being disciplined and the communities in which they live. In spring 1981, the Governor's Advocacy Council on Children and Youth conducted a survey of all the school districts in North Carolina to determine how well the schools are dealing with this important issue. A total of 83 school districts, or 58 percent of the total, responded to the survey.

--23 percent of the school districts responding to the survey do not have codes of conduct which conform to the requirements of the law.

--48 percent of the school districts responding to the survey do not have disciplinary policies and procedures which ensure due process to the students.

--66 percent of the responding school districts do not have complete written policies on corporal punishment.

--60 percent of the responding school districts allow principals to suspend students for violations of rules imposed by the principal and not by the school board.

--there is no state agency which regularly reviews the disciplinary policies of all school districts in North Carolina to ensure their legality and fairness.

The council finds that:

There is no procedure to review local school board discipline policies and ensure they are in compliance with the law.

Many students in the public schools of North Carolina are being punished in ways that do not conform to the law.

Based on these findings, the council makes the following general recommendations:

1. Local school districts should be required by law to submit their policies and procedures for school discipline to the State Board of Education annually for its review.

2. The State Board of Education should be required to conduct an annual review of these local school district policies and procedures to ensure that they are legal and fair.

3. Local school districts should be required by law to comply with changes ordered in the school discipline policies by the State Board of Education.

SCHOOL DISCIPLINE POLICIES IN NORTH CAROLINA

Introduction

Few people disagree with the proposition that one of the most serious issues affecting today's youth is the problem of discipline in the schools. Indeed, a recent Gallup Poll found that discipline in the schools ranked among the top three issues Americans were concerned about in the public schools. In the past few years, North Carolina has had an ever-increasing rate of suspensions, expulsions and dropouts from junior and senior high schools. The young people who comprise these statistics often overcome these interruptions in their education; but too often these youth become long-term problems for themselves and society.

Despite the serious nature of the issue, the schools in North Carolina suffer from a lack of a comprehensive and consistent method of dealing with misbehaving students. Each of the 144 school districts in this state is responsible for the development and application of policies and procedures for school discipline. The N. C. Department of Public Instruction has only advisory powers, and therefore does not ensure the legality or propriety of the various school districts' policies. The state legislature has spoken to the issue by rewriting N. C. General Statute Section 147-110 to mandate certain practices, but because both the N. C. and the U. S. Constitutions also bear heavily on school discipline issues, court decisions are also a necessary source of reference for school law.

Because of the perceived confusion and differences in discipline policies throughout the state, and because nobody else examines the policies on a statewide basis, the Governor's Advocacy Council on Children and Youth (GACCY) conducted a study of the policies of all the local school districts in North Carolina. GACCY staff spoke with various Department of Public Instruction personnel and the staff attorney researched the statutes and cases on school discipline issues. A survey was then sent to the superintendent of each of the 144 local districts requesting information on student codes of conduct, policies and procedures on suspensions, expulsions, and corporal punishment, and a description of any innovative or exemplary programs or techniques designed to deal with behavior problems in the schools. Eighty-three school districts, or 58 percent of the total, responded to the survey. They comprised a variety of types of school districts--rural, urban, city, county, and merged city/county.

Since the purpose of this study was both to analyze the current state of the art of school discipline in North Carolina, and to attempt to improve it where necessary, the names of the school districts are listed in appropriate places.

The following 78 school districts responded to the survey with information*:

Alamance County	Fairmont City	Nash County
Albemarle City	Fayetteville City	New Hanover County
Anson County	Franklin County	Newton/Conover
Beaufort County	Graham County	Northampton County
Bertie County	Granville County	Onslow County
Brunswick County	Greensboro City	Orange County
Buncombe County	Greenville City	Pender County
Burlington City	Guilford County	Randolph County
Cabarrus County	Halifax County	Roanoke Rapids City
Caldwell County	Harnett County	Robeson County
Carteret County	Henderson County	Rocky Mount City
Catawba County	Hendersonville City	Rowan County
Chapel Hill-Carrboro City	Hertford County	Shelby City
Charlotte/Mecklenburg	Hoke County	Stanly County
Chatham County	Iredell County	Statesville City
Cherokee County	Kannapolis City	Tarboro City
Clinton City	Kings Mtn. District	Transylvania County
Concord City	Lee County	Union County
Cumberland County	Lumberton City	Vance County
Currituck County	Macon County	Wake County
Dare County	Madison County	Washington City
Duplin County	Madison-Mayodan City	Weldon City
Durham County	Martin County	Wilkes County
Edenton/Chowan	Monroe City	Winston-Salem/Forsyth
Edgecombe County	Montgomery County	Yadkin County
Elizabeth City/Pasquotank	Moore County	Yancey County

* NOTE: All school districts are listed in alphabetical order.

Additionally, the following five school districts' superintendents (or their representatives) responded with these comments:

Craven County:

"we follow the general statues (sic) of North Carolina in all matters referred to in this questionaire (sic)."

Mitchell County:

All policies and procedures are "unwritten."

Mt. Airy City:

"Conduct codes included in student handbooks. State policies (on suspension and expulsion) in effect locally. State policy (on corporal punishment) observed."

Polk County:

"We are in the process of developing procedures. Presently, there is a lack in all areas requested. Please phone me if you have any questions. Thanks...."

Rockingham County:

"Thank you for your letter of March 11, 1981. We are fortunate that the Rockingham County Schools, through the efforts of the School Board, administrators, teachers, and students, have had no major discipline problems. A copy of our School Board policies can be secured through the North Carolina Department of Public Instruction."*

* Many calls to various departments within the Department of Public Instruction revealed that this information is not kept at the state level.

The following 61 districts did not provide an answer to GACCY's letter and will be sent follow-up surveys during the 1982-83 school year:

Alexander County
Alleghany County
Asheboro City
Ashe County
Asheville City
Avery County
Bladen County
Burke County
Camden County
Caswell County
Clay County
Cleveland County
Columbus County
Davidson County
Davie County
Durham City
Eden City
Elkin City
Franklinton City
Gaston County
Gates County
Goldsboro City
Greene County
Haywood County
Hickory City
High Point City
Hyde County
Jackson County
Johnston County
Jones County
Kinston City
Lenoir County
Lexington City
Lincoln County
McDowell County
Mooresville City
New Bern City
Pamlico County
Perquimans County
Person County
Pitt County
Red Springs City
Reidsville City
Richmond County
Rutherford County
Saint Pauls City
Salisbury City
Sampson County
Scotland County
Stokes County
Surry County
Swain County
Thomasville City
Tryon City
Tyrrell County
Warren County
Washington County
Watauga County
Wayne County
Whiteville City
Wilson County

I. Student Codes of Conduct

The N. C. General Assembly rewrote G. S. Section 115C-391 in 1977 to say that "Local boards of education shall adopt policies governing the conduct of students and shall cause these policies to be published and made available at the beginning of each school year to each student and his parents." The new law also says that school principals may "suspend any student who willfully violates policies of conduct established by the local board of education." (N. C. General Statutes, Section 115C-391 (b) & (c).) Therefore, students in the public schools of North Carolina may be suspended only for behavior which has been specifically prohibited by the local school board.

Additionally, the courts have interpreted the due process clause of the 14th Amendment to the U. S. Constitution to require that students be apprised of those types of conduct for which the student might be disciplined. And the courts have required the rules of conduct to be clear enough for a student to reasonably understand what conduct is prohibited. The rules must give students fair warning of what is forbidden and not be such that the rules would allow arbitrary and discriminatory enforcement. The courts are particularly strict in requiring specificity when First Amendment guarantees of freedom of speech, religion, and association are affected.

The school policies received in response to the survey were placed in categories based on the above-mentioned principles. Additionally, GACCY staff noted a few exemplary policies for their clarity and positive, constructive attitudes. The exceptional policies were those of the following five school districts:

Charlotte/Mecklenburg
Northampton County
Orange County
Stanly County
Winston-Salem/Forsyth

Of the school districts that responded to the survey, the following 59 were determined to have codes of conduct in accordance with state and federal law:

Alamance County
Albemarle City
Anson County
Bertie County
Buncombe County
Burlington City
Cabarrus County
Caldwell County
Carteret County
Chapel Hill/Carrboro
Elizabeth City/Pasquotank
Fairmont City
Fayetteville City
Franklin County
Graham County
Granville County
Greensboro City
Greenville City
Guilford County
Harnett County
Martin County
Monroe City
Moore County
Nash County
New Hanover County
Newton/Conover
Randolph County
Roanoke Rapids City
Robeson County
Rocky Mount City

Chatham County
Cherokee County
Clinton City
Cumberland County
Currituck County
Dare County
Duplin County
Durham County
Edenton/Chowan
Edgecombe County
Henderson County
Hendersonville City
Hertford County
Hoke County
Iredell County
Kannapolis City
Kings Mtn. District
Lee County
Macon County
Madison/Mayodan City
Rowan County
Shelby City
Statesville City
Tarboro City
Transylvania County
Union County
Vance County
Wake County
Weldon City

The following five school districts listed below were found to have policies which are unreasonable or inadequate for the stated reasons:

Lumberton City--Last reviewed in 1970 and is out of date.
Montgomery County--Last reviewed in 1974-75 and is out of date.
Onslow County--Last reviewed in 1974, out of date, and the policy calls for the suspension of any student charged with a drug-related crime. Because every criminal defendant is presumed innocent until proven guilty, there are serious constitutional problems with punishing someone for being charged, but not convicted, of a crime.
Pender County--The code of conduct prohibits "overly affectionate acts to and from school." This rule is vague and it infringes on First Amendment freedoms.
Yadkin County--Code doesn't list what acts are prohibited.

The following six school districts stated that their student codes of conduct were left up to the individual schools, which is in violation of the North Carolina law:

1) Beaufort County
2) Brunswick County
3) Catawba County
4) Concord City
5) Madison County
6) Mount Airy City

No policies were enclosed in the responses of these eight school districts:

1) Craven County
2) Halifax County (response said the board was in the process of developing the code.)
3) Mitchell County (response stated that the code was unwritten, which means the school board has not complied with the North Carolina law, and means all the board's policies are unconstitutionally vague.)
4) Polk County (response stated the board was in the process of developing a policy.)
5) Rockingham County
6) Washington City
7) Wilkes County
8) Yancey County

II. Suspensions and Expulsions

The North Carolina law on suspensions and expulsions is as follows:

(a) Local boards of education shall adopt policies governing the conduct of students and shall cause these policies to be published and made available at the beginning of each school year to each student and his parents. Local boards of education shall also adopt policies, not inconsistent with the provisions of this section or the Constitutions of the United States and North Carolina, establishing procedures to be followed by school officials in suspending or expelling any pupil from school and shall cause such procedures to be published and made available at the beginning of each school year to each student and his parents.

(b) The principal of a school, or his delegate, shall have authority to suspend for a period of 10 days

or less any student who willfully violates policies of conduct established by the local board of education: Provided, that a student suspended pursuant to this subsection shall be provided an opportunity to take any quarterly, semester, or grading period examinations missed during the suspension period.

(c) The principal of a school, with the prior approval of the superintendent, shall have the authority to suspend for periods of times in excess of 10 school days but not exceeding the time remaining in the school year, any pupil who willfully violates the policies of conduct established by the local board of education. The pupil or his parents may appeal the decision of the principal to the local board of education.

(d) A local board of education may, upon recommendation of the principal and superintendent, expel any student 14 years of age or older who has been convicted of a felony and whose continued presence constitutes a clear threat to the safety and health of other students or employees. Notwithstanding the provisions of G.S. 115C-112, a local board of education has no duty to continue to provide a child with special needs, expelled pursuant to this subsection, with any special education or related services during the period of expulsion.

(e) A final decision of the local board of education pursuant to subsections (c) and (d) shall be subject to judicial review in the manner provided by Article 4, Chapter 150A of the General Statutes.

(N. C. General Statute Section 115C-391.)

The statute does not include all of the procedures required to ensure due process. The courts have imposed certain procedures upon schools whenever a student is faced with possible suspension or expulsion. The amount of procedural due process required differs depending upon the length of the exclusion from school.

A. Suspensions for 10 days or less:

A suspension from school for 10 days or less is considered by the courts to be a lesser intrusion on the student's right to an education than a removal for a longer period of time. For this "intrusion," the courts have mandated that some due process be used when the school disciplines a student in this manner. In 1975, the Supreme Court of the United States considered specifically what procedures the school officials must follow when suspending a student for 10 days or less in the case of Goss v. Lopez, 95 S. Ct. 792 (1975).

> For all suspensions of students of 10 days or less - due process requires that the student be given oral or written notice of the charges against him and if he denies them, an explanation of the evidence the authorities have and an opportunity to present his side of the story.
> 95 S. Ct. 792.

The court advised that this rudimentary notice and "hearing" may occur immediately following the alleged misconduct, and because it was only required that the student be given the chance to explain his side of the story, in most cases the "process" must be accorded before the student is actually evicted from the school grounds. However, if the misbehavior that merits suspension is so severe that the student poses a "continuing danger to persons or property or an ongoing threat of disrupting the academic process," the student may be removed from the school premises immediately. In such cases, the notice and hearing must follow "as soon as practicable."

Additionally, a federal district court in North Carolina has determined that if a student is suspended for 10 days or less, and prohibited from attending any extra-curricular activities after school, only that amount of due process that is required for a suspension of 10 days or less is required. In other words, the additional exclusion from extra-curricular activities is not considered to be any more of an intrusion upon the student's right to an education than a simple suspension for 10 days or less. Pegram v. Nelson, 469 F. Supp. 1134 (M.D.N.C. 1979).

The bottom line of these decisions is that all schools in North Carolina must pursue a prescribed (if minimal) procedure when suspending a student for 10 days or less:

1) Oral or written notice of the charges against the student.
2) An explanation of the evidence the authorities have against the student.
3) An opportunity provided to the student to present his or her side of the story.
4) These procedures must be provided before the student is suspended, unless the student's continuing presence poses a threat of disruption, in which case, the procedure must be provided "as soon as (is) practicable" after the suspension.

As stated in the N. C. General Statutes, a school which suspends a student for 10 days or less must allow the student to take any examinations that were missed during the period of suspension. This provision protects these students from a class failure caused by the suspension.

B Suspensions for more than 10 days:

The Supreme Court of the United States has not yet ruled on the extent of due process to be accorded students before they are suspended for more than 10 days. This is probably due to the fact that the district courts throughout the nation have been fairly uniform in the requirements for mandated procedures before these suspensions are allowed to take place. In North Carolina, the U. S. District Court in Charlotte interpreted the U. S. Constitution to require certain specific procedures in cases where students are to be suspended for more than 10 days in the case of Givens v. Poe, 346 F. Supp. 202 (W.D.N.C. 1972)

> Where exclusion or suspension for any considerable period of time is a possible consequence of proceedings, ...due process requires a number of procedural safeguards such as: 1) notice to parents and student in the form of a written and specific statement of the charges which, if proved, would justify the punishment sought; 2) a full hearing after adequate notice and 3) conducted by an impartial tribunal; 4) the right to examine exhibits and other evidence against the student; 5) the right to be represented by counsel (though not at public expense); 6) the right to confront and examine adverse witnesses; 7) the right to present evidence on behalf of the student; 8) the right to make a record of the proceedings; and 9) the requirement that the decision be based upon substantial evidence.

When these procedures are applied along with the N. C. General Statute on suspensions, it appears that since the principal may only suspend a student for more than 10 days with the prior approval of the superintendent, the superintendent is the person who is actually responsible for making the decision to suspend. Therefore, the hearing before an "impartial tribunal" cannot be before the superintendent, or be reversed by the superintendent, as the hearing is actually a challenge of the superintendent's decision to suspend. Additionally, as is provided in the N. C. General Statutes Section 115C-391(e), a decision to suspend or expel a student under the statute may be appealed to the North Carolina courts. However, once the case gets to court, the standard for review will only be whether there was sufficient evidence to substantiate the findings of the hearing officer.

Because the state law requires school districts to have written policies and procedures on suspensions and expulsions, and the courts have construed the Constitution to require specific procedures, the responses to GACCY's survey were evaluated on the basis of whether the written procedures on suspensions and expulsions corresponded to the constitutional requirements.

The policies of the following 43 school districts were found to ensure the due process constitutionally required by the courts:

	Fayetteville City	
Alamance County	Franklin County	Orange County
Albemarle City	Granville County	Pender County
Anson County	Greensboro City	Randolph County
Caldwell County	Guilford County	Roanoke Rapids City
Carteret County	Harnett County	Rocky Mount City
Chapel Hill/Carrboro	Henderson County	Stanly County
Charlotte/Mecklenburg	Hendersonville City	Tarboro City
Clinton City	Hertford County	Union County
Cumberland County	Kannapolis City	Vance County
Currituck County	Kings Mtn. District	Wake County
Dare County	Macon County	Weldon City
Durham County	Monroe City	Wilkes County
Edenton/Chowan	New Hanover County	Winston-Salem/Forsyth
Elizabeth City/Pasquotank	Newton/Conover	Yadkin County

The 24 responding school districts listed below have policies which do not conform to the law:

Beaufort County	Edgecombe County	Moore County
Bertie County	Fairmont City	Nash County
Buncombe County	Halifax County	Northampton County
Burlington City	Hoke County	Onslow County
Cabarrus County	Iredell County	Robeson County
Chatham County	Lee County	Rowan County
Cherokee County	Lumberton City	Shelby City
Duplin County	Martin County	Statesville City

Three school districts appear to leave the policies up to the local schools, which is in violation of the North Carolina statute on suspensions and expulsions:

Brunswick County
Catawba County
Madison-Mayodan City

The following 13 school districts appear to have no policies on the subjects and therefore are also in violation of the law:

Concord City	Mt. Airy City
Craven County	Polk County
Graham County	Rockingham County
Greenville City	Transylvania County
Madison County	Washington City (stated policies are in early stages of revision)
Mitchell County	
Montgomery County	Yancey County

III. Corporal Punishment

A recent study in a northeastern state found that 6 percent, or 1 of every 17 students, received corporal punishment. Research indicates the use of corporal punishment leads to a decrease in academic achievement. In fact, it has been shown in a study of school districts which had eliminated corporal punishment that the majority of schools showed no change in the number of discipline problems, and no schools had an increase.

However, in North Carolina corporal punishment is not only encouraged by the legislature, it is illegal for a board of education to prohibit such discipline.

> Principals, teachers, substitute teachers, voluntary teachers, teacher aides and assistants and student teachers in the public schools of this State may use reasonable force in the exercise of lawful authority to restrain or correct pupils and maintain order. No local board of education or district committee shall promulgate or continue in effect a rule, regulation or bylaw which prohibits the use of such force as is specified in this section. (N.C. General Statute Section 115C-390)

Indeed, the 1981 legislature passed a law allowing teachers and principals who were victorious in corporal punishment lawsuits against them to obtain attorneys' fees in certain situations from the students and parents. (N.C.G.S.6-21.4)

In 1977, the Supreme Court of the United States considered the request of a student in Florida who had been corporally punished. The court was to require extensive procedural rights be accorded all students before such discipline be administered. The court rejected this request, saying that because Florida law already provided protections from arbitrary, malicious and excessive punishment, such an order was unnecessary. The court did hold, however, that the 14th Amendment "liberty interest" was implicated when a public school official corporally punished a student. The court's analysis of the issue was simply whether the Florida laws as written at the time of the lawsuits mandated sufficient due process. The Florida statute allowing school officials to punish corporally requires the presence of a second official while the discipline is being administered and that an explanation be sent to the parents of the student upon request. Additionally, a school authority who administers "degrading" or unnecessarily "severe" corporal punishment may be found guilty of a felony, and Florida law has provisions for civil liability of a teacher for excessively injurious corporal punishment. Ingraham v. Wright, 97 S. Ct. 1401 (1977).

Prior to the 1977 Supreme Court opinion in Ingraham v. Wright, the federal court in Charlotte, N. C., had construed North Carolina's corporal punishment law in the case of Baker v. Owen, 395 F. Supp. 294 (W.D.N.C. 1975), affirmed 96 S. Ct. 210. The court said:

> (A) child has a legitimate interest in avoiding unnecessary or arbitrary infliction of punishment that probably would be completely disallowed as to an adult....North Carolina has itself given school children reasonable expectation of freedom from excessive or pointless corporal punishment by writing into section 115-146 the requirements that such punishment be reasonable and used for specific purposes only. (395 F. Supp. at 302)

The specific purposes for which corporal punishment may be administered are only three (although each is broad enough to encompass several different interpretations). Corporal punishment may be used to (1) restrain pupils; (2) correct pupils; and (3) maintain order.

The court went on to caution that corporal punishment should be administered only as a last resort, after all other methods of discipline have been exhausted or are clearly inappropriate. In addition, the court requires all schools to ensure that the students are aware of which infractions might merit corporal punishment.

> Except as to those acts of misconduct which are so antisocial or disruptive in nature as to shock the conscience, corporal punishment may never be used unless the student was informed beforehand that specific misbehavior could occasion its use, and, subject to this exception, it should never be employed as a first line of punishment for misbehavior. The requirements of an announced possibility of corporal punishment and an attempt to modify behavior by some means--keeping after school, assigning extra work, or some other means of punishment--will ensure that the child has clear notice that certain behavior subjects him to physical punishment. (395 F. Supp. at 302)

Furthermore, to avoid violating the students' rights to due process of law (protected by the 14th Amendment to the U. S. Constitution), the student must be accorded certain minimum procedural protections when corporal punishment is to be used:

> (A) teacher or principal must punish corporally in the presence of a second school official (teacher or principal), who must be informed beforehand and in the student's presence of the reason for the punishment. The student need not be afforded a formal op-

> portunity to present his side to the second official; the requirement is intended only to allow a student to protest, spontaneously, an egregiously arbitrary or contrived application of punishment. And...an official who has administered such punishment must provide the child's parent, upon request, a written explanation of his reasons and the name of the second official who was present. (395 F. Supp. at 302)

The juxtaposition of the N. C. District Court case and the U. S. Supreme Court case two years later leaves some question as to exactly how much "process" is due a student in North Carolina before he can legally be "spanked" by a school official. The Supreme Court case interpreted another state's statute which in itself required more procedural protection than does the North Carolina counterpart, and found the Florida statutory scheme was sufficient to ensure due process. That holding does not mean that what is required by the Florida law is required in every state to ensure due process. One thing is clear from the Supreme Court decision: some process is due to a student when corporal punishment is used as a method of discipline.

Obviously, any school that provides the procedures stated in Baker v. Owen would be safely protecting the rights of the students. The Baker decision required:

1) The publication of all types of misbehavior which might result in the administration of corporal punishment.

2) An attempt to punish the recalcitrant student by means other than corporal punishment before the physical discipline is administered.

3) The presence of a second school official when the punishment is performed.

4) An oral explanation given to the second school official in the presence of the student of the reason for the punishment, thus, allowing the student the opportunity to object to an "egregiously arbitrary or contrived application of punishment."

5) The provision of a written explanation of the reasons for the punishment along with the name of the second official who was present to the parent of the student, if requested.

The Supreme Court decision found that since Florida law required the procedures numbered 3, 4, and 5 above, students in that state were supplied sufficient due process. Therefore, school districts in North Carolina which mandate at least the procedures outlined in Baker are properly cautious in ensuring procedural protections to their students. Those 25 school districts are as follows:

Brunswick County	Granville County	Robeson County
Caldwell County	Guilford County	Shelby City
Chapel Hill/Carrboro	Hertford County	Stanly County
Charlotte/Mecklenburg	Kings Mtn. District	Tarboro City
Durham County	Moore County	Union County
Elizabeth City/Pasquotank	Newton/Conover	Wake County
Fairmont City	Northampton County	Weldon City
Fayetteville City	Orange County	Winston-Salem/Forsyth
Franklin County		

Three of the responding school systems had procedural protections that are constitutional under Ingraham v. Wright:

Macon County
Nash County
Transylvania County

The following 29 school districts provided some procedures, but neither those approved by the Supreme Court or those mandated in Baker:

Albemarle City
Anson County
Bertie County
Burlington City
Chatham County
Clinton City
Concord City
Cumberland County
Currituck County
Dare County
Edenton/Chowan
Graham County
Greensboro City
Halifax County
Harnett County
Kannapolis City
Lee County
Madison/Mayodan City
Monroe City
Montgomery County
Onslow County
Randolph County
Roanoke Rapids City
Rocky Mount City
Rowan City
Statesville City
Vance County
Wilkes County
Yancey County

Twenty-six of the responding school districts had no procedural protections, which may or may not be improper.

Alamance County
Beaufort County
Buncombe County
Cabarrus County
Carteret County
Catawba County
Cherokee County
Craven County
Duplin County
Edgecombe County
Greenville City
Henderson County
Hendersonville City
Hoke County
Iredell County
Lumberton City
Madison County
Martin County
Mitchell County
Mt. Airy City
New Hanover County
Pender County
Polk County
Rockingham County
Washington City
Yadkin County

IV. Principal Authority

The North Carolina law (N.C.G.S. Section 115C-391) clearly states that a principal, or his designee, may suspend a student who willfully violates policies of conduct established by the local school board. The General Assembly has thereby indicated its intention that the popularly elected school board set the rules students must obey to avoid punishment. It is questionable, therefore, whether it is legal for a principal to suspend a student for violation of a rule imposed by the principal and not by the school board. It is also questionable whether a school board can delegate this rule-making authority to a school principal. This question has never been addressed by the courts in North Carolina, but it may in the future provide a thorny issue which will catch many school administrators unaware of the ramifications of improper delegation of duties.

To determine whether this might be a serious problem in North Carolina, GACCY asked each school superintendent the following question: "Does the school board allow a school to suspend a student for behavior which is not specifically prohibited by the school board's policies? If so, by what mechanism (i.e., by specific written policy or regulation or is it simply an unwritten rule of the board?) does the board permit this?"

The responses indicated that only 14 school districts clearly do not allow suspensions for violations of policies other than those set by the school board. Those school districts are as follows:

Buncombe County
Chapel Hill/Carrboro
Clinton City
Cumberland County
Currituck County
Dare County
Elizabeth City/Pasquotank
Kings Mtn. District
Onslow County
Orange County
Shelby City
Stanly County
Union County
Vance County

Nineteen of the responding school districts either have no policy on the question or it was unclear what the policy is:

Burlington City
Chatham County
Craven County
Edgecombe County
Franklin County
Hendersonville City
Iredell County
Madison County
Madison/Mayodan City
Mitchell County
Montgomery County
Moore County
Mt. Airy City
Pender County
Polk County
Rockingham County
Wilkes County
Winston-Salem/Forsyth
Yancey County

But 50 school districts responding to the questionnaire (60 percent of the responses) clearly allow principals this authority, which may well be in violation of state law:

Alamance County
Albemarle City
Anson County
Beaufort County
Bertie County
Brunswick County
Cabarrus County
Caldwell County
Carteret County
Catawba County
Charlotte/Mecklenburg
Cherokee County
Concord City
Duplin County
Durham County
Edenton/Chowan
Fairmont City
Fayetteville City
Graham County
Granville County
Greensboro City
Greenville City
Guilford County
Halifax County
Harnett County
Henderson County
Hertford County
Hoke County
Kannapolis City
Lee County
Lumberton City
Macon County
Martin County
Monroe City
Nash County
New Hanover County
Newton/Conover
Northampton County
Randolph County
Roanoke Rapids City
Robeson County
Rocky Mount City
Rowan County
Statesville City
Tarboro City
Transylvania County
Wake County
Washington City
Weldon City
Yadkin County

Senator SPECTER. I would like to call now Dr. Irwin Hyman, National Center for the Study of Corporal Punishment and Alternatives in the Schools.

Welcome, Dr. Hyman. I note that you are from Temple University. Were you on the 7:18 this morning?

Dr. HYMAN. No, no. We drove down and got in at 1:30 this morning. I brought some of my students with me.

Senator SPECTER. And you are appearing on behalf of the American Psychological Association.

Dr. HYMAN. Yes, I am.

Senator SPECTER. Well, we appreciate your being here, Dr. Hyman. We will make your full statement a matter of the record, We would appreciate it if you would begin with a brief résumé of your own background and educational experience and expertise, and then proceed with your testimony, please.

STATEMENT OF DR. IRWIN A. HYMAN, NATIONAL CENTER FOR THE STUDY OF CORPORAL, PUNISHMENT AND ALTERNATIVES IN THE SCHOOLS, TEMPLE UNIVERSITY, PHILADELPHIA, PA, APPEARING ON BEHALF OF THE AMERICAN PSYCHOLOGICAL ASSOCIATION, WASHINGTON, DC

Dr. HYMAN. As you mentioned, my name is Irwin Hyman. I am a professor of school psychology at Temple University and Director of the National Center for the Study of Corporal Punishment and Alternatives in the Schools.

I have had about three decades of experience as a teacher, administrator, school psychologist, clinical psychologist, and professor of special education. During all that time, I have spent at least a day a week in the schools, working on the firing line.

The testimony that I am going to present today was also prepared by Jacqueline Clarke, who is a doctoral student in school psychology. She is in the audience, and I would like to thank her for helping me prepare this testimony.

First, I would like to briefly summarize what corporal punishment is. Corporal punishment is the purposeful infliction of pain upon someone in order to change their behavior. This does not include protection of yourself, protection of others, and protection of property. So it is the purposeful, sometimes thoughtful, infliction of pain merely to change behavior, not to protect yourself or protect others.

It is a peculiar and archaic practice in America. Most of the children in the world who receive corporal punishment receive it in English-speaking countries. All of Continental Europe has abolished it. The Communist bloc has abolished it. Japan has abolished it. Ireland has abolished it. Most of it is occurring now in Britain, the United States, Canada, New Zealand, and Australia. As you mentioned, most of the States in the United States still allow corporal punishment, yet almost every major city has abolished it.

The incidence of corporal punishment is difficult to assess. The Office of Civil Rights is one of the main sources of information. They indicate that over 1 million children receive corporal punishment per year, although those figures fluctuate. My estimate, as an expert in this area is that at least 2 to 3 million incidents of corpo-

ral punishment happen every year. This includes the many incidents that go unreported in school districts which involve the punchings and shovings and kickings of students, even in States like New Jersey, where it has been abolished, and in cities like Philadelphia, where it was recently abolished.

I am glad to see that Shelly Gaspersohn was here to testify. Her case is typical of the types of cases that I hear about, almost weekly. People call my center for assistance, yet there is very little they can do about the problem. The schools by seizing the in loco parentis privilege, have in effect prevented parents from determining what kind of discipline their children will receive. Three States—Ohio, North Carolina, and Florida—even have legislation that a school board cannot forbid teachers to use corporal punishment.

In this regard, I received a call last week from the parents of a child in San Diego who had allegedly been put in a closet three or four times a week for 8 months, sometimes for the whole school day. The parents are suing the school board.

We have also had cases of children who have been forced to eat cigarettes; who have been hit with all kinds of instruments—the news accounts of these horror stories are appended to the testimony. If you are interested in other abuses that have been inflicted on children, I can tell you more about these incidents.

We are concerned for a number of reasons——

Senator SPECTER. At this point, Dr. Hyman, please amplify on the kinds of punishments which are inflicted.

Dr. HYMAN. OK. We had not planned to specify any further, because people might think this is sensationalism, but let me just give you a better picture.

As documented in the archives at the center, children throughout the United States have been hit with: hands, doubled-over belts, lacrosse sticks, tennis shoes, fists, clipboards, baseball bat shaved down into a ceremonial paddle, electrical cords, rubber and leather straps, pencils, yardsticks, pingpong paddles, one-by-four boards, sticks used to point out things on the black board, broomsticks, a 10-foot piece of wood, hammers, rattann, wooden or plastic rulers, rubber paddles, metal or steel pipes, books, and a wooden drawer divider. In addition, they have been subjected to other forms of corporal punishment including cutting off their hair; being put in storerooms, boxes, cloakrooms, closets, school vaults, thrown against walls, desks, concrete pillars, forced to run the gauntlet or belt line, forced to perform punishment such as push-ups, stuck with pins, had their mouths, hands, and/or bodies taped, disrobed in private or before peers, made to stand on their toes for long periods of time, punched, dragged by the arm or hair, had meals withheld, choked, forced to lie on a wet floor in their clothing, forced to eat cigarettes, tied to chairs with a rope, as well as forced to sit at desks in cloakrooms. Some children have been disciplined with metal cattle prods or with electrostatic generators. A 9-year-old learning disabled student had a 3½ inch, rubber-tipped stick applied to the muscles of his body, which reportedly left dark red marks about the size of a dime up and down his back. An investigator who underwent this pressure technique found it to be excruciatingly painful.

Our 20-page testimony, which I will not read to you here, lists some of the things that have happened as a result of these punishments, including deaths.

Senator SPECTER. How many deaths have been reported as a result of school corporal punishment?

Dr. HYMAN. Well, we have in our files about four cases of deaths that have occurred immediately following the corporal punishment.

The problem of gathering data in this area is that only a very small percentage of the cases reach the newspapers. And very often, as with the Gaspersohns the families do not talk much about the tremendous community pressure not to report these incidents and not to go against the school board. So a lot of cases that I hear about dissolve after the first contact, because the community actually will punish parents for trying to change these rules. But in those cases—one involved a child in Texas who was forced to run laps, who had a known heart problem——

Senator SPECTER. You are now discussing the cases where deaths resulted?

Dr. HYMAN. Right.

Senator SPECTER. A child who had known heart problems was forced to run laps?

Dr. HYMAN. Was forced to run laps and collapsed. Another accured, I believe, around the Baltimore area, where a child developed a brain hemorrhage as a result of the corporal punishment.

Senator SPECTER. What corporal punishment was inflicted which resulted in the brain hemorrhage?

Dr. HYMAN. Well, from my understanding, what happens is the child becomes extremely excited, the blood pressure rises, and in this case, it may have been an aneurism.

Senator SPECTER. But it was not a blow to the head?

Dr. HYMAN. No, but there have been blows to the head.

Senator SPECTER. How about the other death cases, where children died as a result of the corporal punishment.

Dr. HYMAN. One case involved an 18-year-old football player who was required to complete a series of punishment drills which included: 10 50-yard dashes; 10 100-yard dashes; 2 100-yard crawls; 50 sit-ups; 50 push-ups; 4 100-yard drills, and finally, had to run the entire field, both ways, before his death.

Senator SPECTER. All at once?

Dr. HYMAN. Yes. A 7-year-old girl was forced to run a lap of about 170 yards around the exercise area. The 47-pound youngster collapsed and died after completing the lap.

After a 12-year-old boy was spanked twice with a wooden paddle-like object on the legs, he died later from a cardiorespiratory arrest due to intracerebral hematoma and right occipital cerebral vascular accident. That was the case I was referring to earlier. The parents alleged that the spanking caused emotional and mental stress, which in turn caused the blood vessel to burst. So, we have even had deaths associated with corporal punishments.

We have also had special education students receiving corporal punishment. I think it is especially difficult when you have children who have been beaten in their homes, who are emotionally disturbed and socially maladjusted, come to school, and the beatings occur again.

Senator SPECTER. Dr. Hyman, you referred to disrobing. Would you amplify what is involved in that category, which you described as disrobing?

Dr. HYMAN. There was one case I believe it was in either Florida or Chicago, and we can document that for you—where something was stolen, and the principal had all the boys come into the men's room and disrobe all of them to check to see if he could find what was stolen. Of course, it did not work.

Senator SPECTER. So it was really in the nature of a search to see if anybody had the items on them, as opposed to compelling disrobing in a humiliating circumstances—not that there wasn't humiliation——

Dr. HYMAN. A lot of humiliation, with the children all having to disrobe in the men's room together and being searched.

Senator SPECTER. Were they all boys?

Dr. HYMAN. Yes.

Senator SPECTER. And how old were they?

Dr. HYMAN. I believe that involved a fifth grade class, so they were about 10 years old.

Senator SPECTER. Any other instance of disrobing that you were referring to there?

Dr. HYMAN. I cannot recall, but we do have other incidents in our records.

Senator SPECTER. And how about the choking? What happened there?

Dr. HYMAN. Well, in Pittsburgh, a vocational education teacher choked a student for not obeying instructions. The parents complained again. What happens——

Senator SPECTER. Well, was that a form of corporal punishment in a calculated way, or was that an emotional instantaneous response——

Dr. HYMAN. That brings up a very good issue. The problem is——

Senator SPECTER. Before we get to the issue, how about the question?

Dr. HYMAN. Yes, I would say that was an instantaneous response of temper.

Senator SPECTER. All right. And now, the issue.

Dr. HYMAN. OK. The issue is that as long as Americans accept hitting as a way to change behavior, I believe that we are going to continue to have, I think, a high rate of child abuse and sexual abuse. Such acceptance implies that both parents and school personnel have a right to do what they wish to the bodies of children.

Now, the juvenile justice system, the correctional institutions, and the judiciary, in our conutry have recognized that the infliction of pain only brutalizes people more. Accordingly your committee has something to say to educators, because we know that the use of violence to solve behavior problems only teaches more violence. And I believe strongly, from all the research that I have done, that if we had a society in which it was not accepted, and we did not think of using the infliction of pain on children to change their behavior, we would have for fewer of these incidents, including the choking, the beatings, and so forth.

Senator SPECTER. Dr. Hyman, you just mentioned sexual abuse. Is there any connection between corporal punishment and sexual abuse?

Dr. HYMAN. Yes, moving away from the schools—although this happens in some schools, but more in the home—very often, the cases I have seen involving sexual abuse, especially of teenagers, have included excessive corporal punishment on the buttocks. As the girls get older—and very often, this happens with stepfathers, uncles, or some other relative—the girl is still required to take down her underwear while the spanking occurs. Very often, this is associated with sexual abuse. The punishment is based on the concept that, "I own my child's body and can do what I want to the body of my child."

Senator SPECTER. But that is not an occurrence which is present in schools with respect to corporal punishment?

Dr. HYMAN. In general, we have not found a relationship between sexual abuse and corporal punishment in schools, because the schools are generally too open for sexual abuse to occur. It does happen, as you know, in some institutions where there is evidence of a sado-masochistic attitude toward sex and beatings.

[The prepared statement of Dr. Hyman follows:]

Prepared Statement of Dr. Irwin A. Hyman

Mr. Chairman and Members of the Subcommittee, it is indeed an honor and a pleasure to be invited here today to testify on behalf of the American Psychological Association on the subject of corporal punishment in the schools. I am Dr. Irwin A. Hyman, Director of the National Center for the Study of Corporal Punishment and Alternatives in the Schools and Professor of School Psychology at Temple University. During the past three decades, I have been a teacher, a school psychologist, a chief clinical psychologist, and a consultant to Federal, state, and local agencies regarding school discipline. The written portion of my testimony was co-authored by Jacqueline Clarke, an advanced doctoral student in school psychology at Temple University. She has

ght for eighteen years in elementary education at the Council Rock School District in Pennsylvania.

I am here today on behalf of the American Psychological Association (APA) to address the issue of corporal punishment in our nation's schools. In response to serious concern over the growing incidence of corporal punishment in this country, the APA passed a resolution in 1976 opposing this practice in our schools. While I represent the APA, it should be noted that the specific data and conclusions presented in this testimony are based on research conducted by myself and others and do not necessarily reflect the views of the Association.

I am pleased that the Subcommittee on Juvenile Justice is examining the nature and scope of corporal punishment in the schools, along with ways to

vent and respond more appropriately and effectively to discipline problems. I believe that the Subcommittee and the Office of Juvenile Justice and Delinquency Prevention in the Justice Department, which it oversees, can provide Federal leadership to safeguard the welfare of school children and youth in America. Specifically, you may be able to convince both the public and educators that hitting is not an appropriate way to change people's behavior.

Our judicial and law enforcement establishments have long recognized that the infliction of pain, often called corporal punishment, is destructive and counterproductive. Incarcerated adults and children in America are protected from corporal punishment, as are institutionalized persons. In our society,

only school children and youth are subjected to slaps, hits, kicks, paddlings, and beatings by the agents of the state. Why is it that among the advanced ions of the world, it is youth in English-speaking countries who receive the majority of legally-sanctioned paddlings in schools? All of continental Europe, Ireland, Israel, and the communist countries, among others, have abolished corporal punishment in the schools.

One need not read Charles Dickens to know that the institutionalization of the infliction of pain on children always leads to uncontrolled abuses (Hyman, 1983). The acceptance by adults that they have a right to do as they will with the bodies of children leads to the enormous problem of physical and sexual abuse of American children (Hyman, 1980). The use of hitting as an acceptable method of changing behavior further contributes to violence in our country. We know that when teachers hit children, they are providing a model for the use of force to solve problems (Bongiavanni, 1979). The hitting of dren is a transgenerational phenomenon which must be curtailed in order to reduce violence in our society.

Incidence of Corporal Punishment

Accurate data on the incidence of school corporal punishment are difficult to obtain. We do know that it is not allowed in seven states, the District of Columbia, Puerto Rico, many major cities, and especially in affluent suburbs in the northeast, midwest, and west. We know that the greatest percentage occurs in the south and the southwest. We have some evidence that more favorable attitudes toward corporal punishment are found in schools with low per pupil expenditures on education and psychological services, and in areas where adult illiteracy is high (McDowell & Friedman, 1979).
The major recipients of corporal punishment are blacks, poor whites, and Hispanics (Farley, 1983; Farley, Kreutter, Russell, Blackwell, Finkelstein, & n, 1978).

It is difficult to determine the actual numbers of corporal punishments per year. This is complicated by reporting procedures and veracity of reports. The Office of Civil Rights data from 1980 indicate over a million incidents. In 1982, they reported 792,556 incidents. However, we suspect these figures are gross underestimates since many cases occur without official reporting procedures at the local level. Also, observations, data, and

interviews with inner-city students where corporal punishment is not permitted suggest a great number of "informal" punching, hitting, and slapping.

Our own estimate is that at least two to three million incidents of corporal punishment occur in American schools each year. Since so many educators are allowed to hit children, the following abuses will no doubt continue to occur.

Types of Corporal Punishment

From the archives of the National Center for the Study of Corporal Punishment and Alternatives in the Schools (NCSCPAS) at Temple University, we would like to offer a picture of what happens to some American school children when they misbehave. It should be noted, however, that the majority of the cases to be presented was gleaned from a file of press clippings and may only represent the tip of the iceberg of the various acts of cruelty inflicted on our nation's children. While news accounts of incidents may be called into question as to their validity, unfortunately they provide the only available national source of case material at the present time.

In some districts which sanction the use of corporal punishment, the administration issues "regulation" instruments to be utilized by its staff.

example, in some districts the educators may be given paddles, leather straps, or a "thin rattan". There are incidents of staff personnel who have modified these implements. Some have wrapped the paddles with masking tape; others had holes drilled in the paddle so the air would not be able to "work as a cushion". One case even involved the teacher's name being drilled across the paddle.

In contrast to the move common belief that corporal punishment is meted out by a standardized or authorized implement, there are many reported accounts which show that other instruments have been used including: hands, fists, rulers and yardsticks, "doubled-over" belts, lacrosse and broomsticks, baseball bats, large slabs of wood, and metal or steel pipes. Some children have reportedly been disciplined with a metal cattle prod and an electrostatic erator.

In addition, there are news accounts of children being subjected to the cutting off of their hair; being put in a storeroom, box, cloak room, closet, and/or school vault; thrown against a wall, desk, and/or concrete pillar; forced to run the "gauntlet" or "belt line"; forced to perform punishment

push-ups; disrobed in private or before peers; made to stand on their toes for long periods of time; punched; dragged by the arm and/or hair; had meals withheld; choked; forced to lay on a wet floor in their clothing; forced to eat cigarettes; and tied to a chair with rope (Clarke, Liberman, & Hyman, 1980).

Injuries from Corporal Punishment

Although most (if not all) regulations on the use of corporal punishment emphatically state that the administration should not be "excessive" nor meted "in anger or malice," this has not been found to be entirely true in many cases. Injuries resulting from paddling include large red welts, blood blisters or clots, and broken veins and/or blood vessels. Most believe that corporal punishment only leaves transient bruises which last for a few hours. In the case of the paddling of a seven-year-old, the bruises reportedly lasted two weeks; another child was hospitalized with head injuries for 10 days. Other children have reportedly required treatment for skin and muscle injuries, emergency surgery for a rupture due to an injury to the testicles, and have sustained possible permanent damage to the buttocks and legs.

When the infliction of physical punishment is not focused in the buttocks area, other injuries tend to occur with similarly devastating effects on the child's body. Some children have sustained headaches or dizziness from being on the head, or a cerebral concussion and sprained neck; left with impaired hearing after being thrown against a wall and struck; sustained a sprained arm and facial abrasions when the child's arm was twisted behind her back and she was wrestled to the ground; had bloody and fractured noses; had a two-inch patch of hair pulled out of the scalp; required stitches on the mouth when hit with a paddle; gash in the eye that required seven stitches and a possible hairline fracture of the bones beneath the eye. An eighth grade boy had two teeth chipped and had the ligaments in his mouth torn when his teacher struck him in the mouth with his lunch bag which contained a twelve-ounce bottle of soda.

Some deaths have been associated with punishment drills imposed during school activities. For instance, an eighteen-year-old football player was required to complete a series of punishment drills which included: ten yards dashes, ten 100-yard dashes, two 100-yard bear crawls, 50 situps, 50 pushups, four 100-yard drills, and finally had to run the entire field both

ways before his death. A seven-year-old girl was forced to run a lap of about 170 yards around the exercise area. The 47-pound youngster collapsed and died after completing the lap.

Special Education Students

Special education students likewise do not appear to be protected against the practice of corporal punishment. Many of these exceptional children are vulnerable (both physically and emotionally) due to their handicaps. In addition to children with emotional disturbances, mental retardation, deafness, cerebral palsy, and/or learning disabilities other special needs children have been subjected to physical punishment at the hands of teachers well. For example, an arthritic and rheumatic third grade boy was spanked (with a wooden drawer divider) even after the parent indicated that she did not want her child spanked. Due to the stress of being spanked, a seven-year-old child had an epileptic seizure: the first convulsion she had had in over a year. An asthmatic ten-year-old girl was struck across the chest because she mispronounced a word during reading class. A boy with muscular dystrophy was treated for abrasions and contusions after being hit about the left and right knees and thighs with a ruler.

The Legality of Corporal Punishment

At the Federal level, in the case of Ingraham v. Wright (1976), the U.S. Supreme Court denied school children constitutional protection from corporal punishment in the form of effective procedural due process and protection from cruel and unusual punishment. In reference to the latter, in order to be tected, children would have to commit a crime and be schooled in an institution for delinquents. Consistent with its formal position against corporal punishment in the schools, the American Psychological Association filed an amicus curiae brief in this case on behalf of the Florida students who brought suit against the Dade County school officials.

In Smith v. West Virginia Board of Education, children were granted substantive due process rights to protect them from corporal punishment in the schools. The West Virginia Supreme Court forbade the use of instruments for hitting children. Unfortunately, because of pressure from educators, the West Virginia legislature have since overruled the Court's decision.

Even if parents or school boards do not want educators to use corporal punishment, laws in the states of Florida, North Carolina, and Ohio do not

ow school boards to deny administrators and teachers the right to hit school children. In other words, parents have no right to forbid educators to corporally punish their children. This means that "in loco parentis" has been seized by the schools.

When abuses of corporal punishment occur, few reach the courts because of the reluctance of police, prosecutors, and child abuse officials to intervene in the schools. When they do reach trial, the majority of cases favor the teacher (Clarke, et al.,1980). Finally, even when strict, legalistic guidelines are used, it is impossible to legislate against tempers. The results may be litigation against the school boards since the school districts are frequently included in the lawsuit (Hubler, 1982). There is no guarantee that the school district will be able to afford judgments on behalf of the plaintiff. This brings the individual taxpayer (interested or not) squarely hin the field of battle. For example, the South Phoenix, Arizona taxpayers anticipate a hefty increase in property taxes in order to pay the liability incurred when a municipal policeman shot the wrong man.

Psychological Research on Corporal Punishment

The overwhelming research evidence indicates that corporal punishment is unnecessary, counter-productive and, at times, destructive of mental health (Hyman & Wise, 1979). Corporal punishment only temporarily suppresses behavior and does not teach new behaviors. Excessive use has been found to decreases learning (Lamberth, 1978). It arouses aggression against others (Murray, 1964) and against school property (Meyer, Butterworth, Nafpaktitis, & Sulzer-Azaroff, 1983). Furthermore, observing the infliction of corporal punishment by adults teaches that hitting is an acceptable behavior and, efore, contributes to violence in our society. In effect, it teeches that "might makes right" and that force may be used to solve problems. Since minorities and poor are disproportionate the major recipients, the use of corporal punishment further alienates and angers this segment of our population (Farley, 1983; Farley et al., 1978).

Of special interest to this Subcommittee is the effect of corporal punishment on criminal behavior. While not directly related to schools, Welsh (1979) demonstrated in several studies of juvenile delinquents that those children who committed the most violent crimes were often the recipients of severe corporal punishment in their families. While the violent behaviors of

these youth may be traced back to the home, we have often observed that children who have learned violence in the home display this behavior in the schools. Moreover, teachers seeking the involvement of the parents of these children are often advised that beatings are the only thing that the children understand and are thus encouraged to continue the beating in the schools. There is also evidence of a transgenerational pattern linking being hit as a child to repeating this behavior as an adult.

Our research at NCSCPAS indicates that teachers, who were not hit or hit infrequently, rarely use corporal punishment with children (Lennox, 1982). Other studies show that modeling, that is copying your parent's or teacher's behavior, accounts for the historical use of corporal punishment. Child abuse is merely an extension of the concept that hitting children is acceptable. When educators are permitted to, or encouraged to, hit children, parents feel there is a societal sanction for this behavior. As a result, there is a misperception by many which leads to our alarming rate of child abuse. We can begin to address this issue by training teachers not to hit children and to use more rational methods. To encourage appropriate behavior, the educational system can serve as a training ground both by example and by providing curricula for convincing young people that hitting is an unacceptable method for controlling children.

Understanding Discipline: Why Students Misbehave

I would now like to discuss the major factors which contribute to school misbehavior and disruption. They are documented in the literature (Duke, 1978: Hyman, Flanangan & Smith, 1982). While any of these can be a major contributor in individual cases, or even in certain communities, all must be accounted for in diagnosing and solving problems. Discipline is a complex problem with multiple causes. Yet research offers many effective nonpunitive approaches (Hyman & Lally, 1981). Most are based on concepts of prevention remediation rather than punishment.

1. Inadequate parenting has been traced to school misbehavior. Problems range from parents' lack of knowledge about child rearing to violence in the home. Solutions include a variety of parent training techniques and early intervention through provision of adequate services by school psychologists, community mental health agencies, and family courts (Massimo & Shore, 1966). All of these services exist but many are underfunded and understaffed.

2. Ineffective teacher training is a cause of many classroom disruptions which could either be avoided or handled adequately (Hyman, Stern, Lally, Kreuter, Berlinghof & Prior, 1982). In an investigation for the National Institute of Education and in current ongoing research, I have reviewed much of the literature on teacher training (Hyman & Lally, 1982). My staff and I identified effectiveness studies of over thirty discipline training programs. Despite the existence of these approaches, most practicing teachers have had no formal training in discipline at the preservice level. Teachers do receive inservice training at workshops, but there is little evidence that these brief encounters have any long-lasting effects. There is further evidence that training should be personalized and offered over sufficient time for teachers to internalize what is presented. Moreover, approaches must be matched to appropriate school contexts.

In recent years I have been working with a child variance approach that requires matching teachers with discipline models. In a four-year project in the Flemming School, in Trenton, N.J., we have found that helping teachers to learn about themselves and their classroom behavior is extremely effective in reducing discipline problems.

3. Ineffective school organization and administrative leadership may be a major cause of student alienation and consequent disruption and violence. We know that school size, poor leadership, inappropriate curricula, and the overuse of suspensions all contribute to misbehavior.

Schools in trouble need the help of psychologists with experience in organizational development. School psychologists, and others with proper training, can offer great help in encouraging organizational change (U.S. Department of Justice, 1979). Principals must be flexible, knowledgeable and completely supportive of necessary change which may take three or four years (Sarason, 1971; Smith, 1973).

4. Interaction of environments with student characteristics (e.g., learning disabilities, certain types of inborn temperament traits and personality styles) can result in severe behavior disorders (California Commission on Crime Control & Violence Prevention, 1981). There is a correlation between delinquency and school learning problems. Poor self-esteem and frustration with learning contribute to behavior problems (Albee, 1982). While we need more research on causative factors in

delinquency, our state of knowledge is sufficient to allow the use of more psychological and social services for prevention, early identification, and remediation. However, while we are talking about improving discipline, the administration continues to reduce funding for the services described here.

5. Changing forces in society itself may contribute to school disruption. Violence on television, high youth unemployment, isolation of ilies due to frequent moves, and economic stress are only some of the factors which may undermine family stability and student faith in the system. Multi-layered bureaucracy and large corporations diminish individuals' feelings of worth. Societies' rapid advance towards high technology forever shuts out realistic employment opportunities for a large number of youth.

The five contributing factors discussed suggest that youth misbehavior and violence have many roots. The causes and solutions are complex and require more than "good, old fashioned" discipline. Perhaps our best hope lies with prevention.

Prevention of Discipline Problems

The key to developing good discipline in schools is prevention which can be offered at various levels of the school system. While prevention may at st seem expensive, over the long run it is exceedingly cost-effective. The most critical step to reduce discipline problems in the schools is to change the school climate to foster positive methods of discipline rather than corporal punishment. While many educators claim they need corporal punishment as a last resort, our experience shows that far too often it is the first or second response to a variety of perceived misbehaviors ranging from not bringing in homework to fighting. Corporal punishment is the easiest and quickest response. It requires no thinking by the teachers, it requires no equipment other than a paddle, and it requires no training. It is so prevalent because most teachers have had no formal training in the theory, research, and practice of school discipline. If you take away this major tool of control, that is children's fear of being hit, teachers feel helpless. Therefore, they must receive training in an effective alternative. However,

current climate in our country does not support prevention and alternatives.

Rather, the current educational climate supports a movement toward punitiveness as an increasingly popular approach to discipline. This

get-tough approach suggests that we need to return to "good old fashioned discipline" which will set students back on the right track for learning. The truth is that good old fashioned discipline was terrible, because it relied on the use of pain, humiliation, dull curricula and rote recitation that were uninteresting and decreased motivation to learn. Teaching was based on moral precepts about what children ought to do. Pedagogy relied on tradition and idiosyncratic experiences since there was no available research to guide teachers in effective approaches to discipline which enhance learning.

We recognize that discipline is an emotional issue and that adherents of punishment as a motivation for learning base their beliefs more on personal values rather than research data. We are therefore testifying here today to provide data-based evidence that studies of the relationship between achievement and discipline overwhelmingly point to the need for positive, democratic, and structured approaches to motivate children to achieve. Corporal punishment has no place in contemporary education.

First, positive approaches to discipline include the use of meaningful praise, building self-esteem, and avoiding punitiveness (Brophy, 1981). A review by Lamberth (1979) indicates that almost all research shows that increased punitiveness in the classroom results in decreased achievement. Even though there are differences on specifics among experts, almost all researchers agree that the use of positive incentives, both intrinsic and

rinsic, are highly preferable to criticism, ridicule and sarcasm in the classroom (Peterson & Walberg, 1980; Squires, Huit, & Segars, 1984; Gage, 1978).

In the old days, achievement was dependent on limited curricula, which was learned by rote. Even today, many countries still rely on the inculcation of specific information and the regurgitation of that material. We propose that American schools should emphasize the democratic process in which we teach students to think and to learn problem-solving strategies. Most teacher training programs dedicated to teaching discipline attempt to use democratic principles (Hyman & Lally, 1982). Fairness, justice, and a sense of due process will go a long way to teach inner discipline, improve school climate and increase learning (National Institute of Educaton, 1978; Hyman &

lessandro, 1984).

Finally, it is important that schools and classrooms have structure. However, structure should be nurturing and not punitive. Many confuse structure with autocracy, rigid rules, and the belief that the teacher/principal is always right. This view is currently being abused by teachers who misinterpret assertiveness training, a currently popular approach to discipline. Rules are important, but recent research demonstrates that they can be rigidly misapplied. For instance, automatic suspension may result as a function of using discipline codes to provide structure, but when used excessively it results, in lower achievement (Loyola, 1984).

Time on task is a currently popular approach to improving achievement (Peterson & Walberg, 1980; Denham & Leberman, 1980). But forcing children to attend to learning will be much less useful than motivating them to stay on task.

We understand that what we have thus far presented may sound somewhat theoretical. Therefore, we will now specify a number of specific techniques and programs which are based on methods of rational discipline to assure good achievement. The material presented here is derived from extensive research conducted originally under contract to the National Institute of Education (Hyman & Lally, 1982).

Programs which have demonstrated success in improving discipline and achievement include training school staff in Human Relations approaches, Reality Therapy, Teacher Effectiveness Training, Social Literacy, Social Problem Solving, Transactional Analysis, Rational Emotive Principles, Classroom Ecology, Behavior Modification, and Systematic Training for Effective Teaching. Helpful organizational changes include the institution of alternative schools, reduced use of suspensions, and improvement of school .mate.

Specific techniques for improving discipline and learning include training teachers to: (1) use appropriate information feedback to students; (2) diagnose reasons for students misbehavior or lack of achievement; (3) modify the classroom ecology; (4) use reward and planned ignoring more frequently than punishment; (5) conduct democratic classroom problem-solving procedures; (6) express emotions appropriately; and (7) use simple therapeutic techniques to deal with crises.

Policy Recommendations

(1) We need to develop uniform methods of discipline reporting at the Federal, state, and local levels. To this end, the staff at the National Center for the Study of Corporal Punishment and Alternatives in the Schools been working on a computerized system which enables schools to be provided with detailed information on school misbehavior. Hopefully, the effort is being encouraged elsewhere.

(2) We must continue to support psychological research in the area of school discipline at the National Institute of Education (NIE) of the U.S. Department of Education. Unfortunately, soon after releasing the Safe Schools Study in 1978, the special office created within NIE to integrate research efforts from many fields and carry out major studies on school discipline was dismantled.

(3) We need to disseminate research findings concerning effective prevention and intervention strategies and model programs in the schools. It is my understanding that the National School Safety Center, which arose from interagency agreement between the Departments of Justice and Education, was established for this purpose; however, no information is currently available about its activities and future plans.

(4) We need to continue to expand pre-service and in-service teacher training programs. However we must continue to evaluate programs to determine their effectiveness. Public popularity may not guarantee quality. Obviously, the latest panacea is Assertive Discipline, yet we have little real data on its effectiveness, especially over time. Just looking at exemplary schools will not provide solutions to the problem. We need to look at the processes which are most effective and develop formats for matching processes with schools.

(5) We need to modify our school suspension and expulsion procedures. The Office of Juvenile Justice and Delinquency Prevention should take an ive role in this regard as one of its stated purposes in the Juvenile Justice and Delinquency Prevention Act is "to assist state and local communities with resources to develop and implement programs to keep students in elementary and secondary schools and to prevent unwarranted and arbitrary suspensions and expulsions." Federal leadership is essential in this area

since the current rates of school suspension and punishments are a national disgrace. The Education Department reports that in 1982, nationwide, 72.8% of those who began high school graduated, as compared to 77.2% ten years earlier. The picture is even more dramatic when one looks at inner-city schools; in New Jersey, for instance, some inner-city schools lose almost half of their students by the time they become seniors. What happens to these drop outs and push outs? How many return to the schools, or hang around the school .sing problems? We need to develop more effective in-school suspension programs; we need more psychological services; we need to develop effective methods of enforcing discipline codes; and most of all we need to support the development of good alternative schools.

(6) Most importantly, we need <u>to eradicate corporal punishment</u> from our schools as recommended by the American Psychological Association and many other professional organizations dealing with children. The answer to improving education lies not with the use of get-tough procedures, which have been discredited in much of the psychological research, but rather with the use of rational, preventive, and motivational techniques.

In summary, we propose that there is a strong relationship between humane, democratic, encouraging approaches to discipline and high educational achievement. While we do not deny that punishment may be necessary at times, :poral punishment should always be avoided. The infliction of physical pain (corporal punishment) and the use of ridicule, humiliation, and sarcasm have no place in contemporary education. The research in learning and educational psychology indicates the destructive and counterproductive nature of corporal punishment. In the instances where prevention techniques fail and punishment is necessary, research indicates that procedures such as withdrawal of privilege, time-out, and restitution are effective. Moreover, positive techniques of discipline are consistent with the philosophical concepts of constitutional democracy and should be practiced in the schools. In order to instill in our children the value of these concepts, we must first extend to them the constitutional rights of due process and protection from cruel and unusual punishment (which they may currently exercise in the family and the rts) in the school setting as well.

Thank you for the opportunity to testify here today on behalf of the American Psychological Association on the subject of corporal punishment in the schools.

Senator SPECTER. Let us invite president-elect Paul Armstrong, from the West Virginia Association of Elementary School Principals, to join us at this point, if we may.

We appreciate your coming, Mr. Armstrong.

You are, as I understand it, the president-elect of the West Virginia Association of Elementary School Principals, and provide the considerations on the other side of the issue. You favor corporal punishment in the schools.

Mr. ARMSTRONG. Yes, sir.

Senator SPECTER. Will you outline, first, Mr. Armstrong, your own background, your education, your experience, and then proceed with your testimony, please?

Mr. ARMSTRONG. Yes. I have been in education for 14 years, and am now in my 11th year of school administration. The past 5 years, I have served a multiple-school assignment, 225 students, currently. I am serving as the president-elect of the State association.

Senator SPECTER. Proceed with your testimony, please.

STATEMENT OF PAUL V. ARMSTRONG, PRESIDENT-ELECT, WEST VIRGINIA ASSOCIATION OF ELEMENTARY SCHOOL PRINCIPALS, INC., WILLIAMSTOWN, WV

Mr. ARMSTRONG. I was called and asked to give an overview of what is happening in West Virginia. And I am not prepared to debate necessarily the pros and cons—and to be quite honest, I kind of feel like you have a gun here with four shots in it, and you have already shot three of them, and they have gone off, blank—being the only one kind of on a "pro" stance.

In 1982, the West Virginia Supreme Court ruled that corporal punishment by the use of any device other than the open hand violated the child abuse sections of the West Virginia Code. They did not rule on the merits of corporal punishment. They said that had been established and was permitted. But when you interpret it in line with the child abuse sections of the West Virginia Code, the only thing that you could use was the open hand.

In response to this decision in the 1983 legislative session, several bills were introduced in the legislature to reinstate corporal punishment in the schools. One of those bills did pass, and a copy is attached in the handout that I gave you.

We do find several provisions of that bill which are objectionable and had introduced last year legislation to correct those areas that we disagreed with. It did pass the house of delegates, but it did not pass the senate. On the day that the vote was taken, in an informal poll of the pages who were serving in the house of delegates that day, from ages 6 to 16, all students did say that they favored corporal punishment in the school. Also during that time, the Charleston Daily Mail, a local newspaper out of the capital, issued three different reports on corporal punishment as far as opinion polls, and the lowest percent favoring it was 69, and the highest was 85.

First of all, I would like to distinguish between corporal punishment and beatings. Under West Virginia law, the young lady who spoke earlier would have a case that no judge could throw out, because the Supreme Court has ruled that when a county board of education has a policy, it must follow it, whether it wants to or not.

And we are not advocating that teachers or principals favor the abuse of corporal punishment. Such instances have been reported previously to this committee this morning.

We do feel that other methods do work. The biggest complaint that I receive is not from the teachers. It is from the parents. I believe sincerely that Federal legislation is not needed in this area, because it should be left to the local areas—primarily because, as I stated, I have had more objections—when I have called parents and stated that if the behavior does not improve, I will have to suspend them, the more normal reaction that I receive is, "Why don't you just paddle them, instead of sending them home? Why do they have to miss schoolwork?" I get more complaints like that.

We had one year where paddling was not permitted at all, except with the open hand.

Senator SPECTER. So you had 1 year in which only the open hand was permitted?

Mr. ARMSTRONG. Right. And we have had 1 year now with the legislation that is in the packet. Within that time period, I have seen more and more attitudes from students telling the teachers openly, in some cases, "I don't have to do that. You can't make me. You are not going to make me." In one case that I found out about in the fall of what had happened in the spring, some sixth grade students fed some first-graders dog food. And when the teachers were questioning the students as to why they would do something like that, their response was, "Because we knew we could not be paddled," which was totally unrelated to the incident, but still, that was their response.

In-School Suspension is not always possible—in my situation, I cannot in-school suspend. I do not have the staff or the facilities to supervise it, so out-of-school suspension is the only other recourse that I have. We do have support from the West Virginia PTA and the West Virginia Education Association in the changes that we are requesting. We do believe that if the guidelines are established and followed, and those people who do not follow them are taken care of, that it can remain a disciplinary tool.

I would like to say that I know research may state otherwise, but I do not believe that corporal punishment teaches aggression any more than I believe receiving a speeding ticket teaches somebody to be a race car driver. It has been determined that smoking is dangerous to your health, but we still have tobacco. A lot of work has been done with alcohol and drug abuse and driving. My own father was killed by a drunken driver when I was 18 months old. But we still have alcohol, and we still have automobiles. And I do not think that looking at the idea of abolishing corporal punishment will solve the ills of society that have been brought before you today.

One example in the packet that I gave you is a valentine from a 5-year-old that I received last year. Some of it is not totally readable, but it is stated to this effect: "Mr. Armstrong, I know the smacks you give may be hard, but I still love you. Gina." There is a little girl that I would never even have to speak to, because her behavior is exemplary, but I think it shows——

Senator SPECTER. What was she referring to on the "smacks"?

Mr. ARMSTRONG. I did not inquire of her what she meant, but I am sure she is talking about a paddling.

Senator SPECTER. Has she been paddled?

Mr. ARMSTRONG. No—and probably will never be.

Senator SPECTER. So she has not actually been smacked or paddled.

Mr. ARMSTRONG. That is true. I guess it is just the rumor that goes around sometimes.

Another situation was about 6 or 7 years ago. A third-grader was having some problems, and I had talked to him on two occasions and told him that the next time he did that behavior—it was acting out on the other students—that I was going to paddle him, also with parental consent.

Senator SPECTER. You are saying "with parental consent"?

Mr. ARMSTRONG. Yes, sir. My normal procedure—as a general rule, it takes a student to see me three times before I would ever administer corporal punishment. On the second time, I call the parent, and we discuss it, and many times, they have been given the options of suspension versus corporal punishment, and I have never had one tell me to suspend them; they would rather have them paddled.

Senator SPECTER. So as a matter of your practice, you do not paddle without getting parently approval?

Mr. ARMSTRONG. That is right. It has not always been that way in the 10 years that I have been administrator, but currently, that is the way it is.

But this one boy was in third grade, and he knew, as he came into the office, what was going to happen, because he had been told. He went into the office, and I had not even entered the office yet, and you could hear him in there, crying, and saying, "Oh, no, I'm going to get it, I'm going to get it. I don't want it, but I know I deserve it." And he was saying this to himself, and the secretary and the nurse and I in the outer office could hear him.

I did paddle him, and as he was leaving the office, he put his hand on the door—this was in December—he turned around to me, and he was sobbing, and he said, "Merry Christmas, Mr. Armstrong."

I do not think when you have students like Gina or Matthew, whom you have dealt with and have told them what the consequences will be, that when it is done in a reasonable manner—not in some of the manners that have been done in some of the stories you have heard this morning—that it is one effective disciplinary tool and should not be totally removed, unless the local community chooses to abolish it.

Senator SPECTER. Mr. Armstrong, what kind of a paddle did you use in the instance you just described?

Mr. ARMSTRONG. I would say it was made from black willow, which is a very light wood; it is not hard, like an oak or hickory. And it was approximately 18 inches long and about 4 to 5 inches wide and about a fourth of an inch thick, probably.

Senator SPECTER. And how many whacks did you inflict on the third-grader?

Mr. ARMSTRONG. That was 7 years ago. It would not have been more than three. It would probably have been one in this situation, since it was a third-grader.

Senator SPECTER. How hard?

Mr. ARMSTRONG. How hard. I have no idea of judging. I understand your question, but as far as to put an answer in there—I do not mean——

Senator SPECTER. Well, did you strike with all your might, or did——

Mr. ARMSTRONG. Oh, heavens, no. I have never, never hit anybody with all my might.

Senator SPECTER. Mr. Armstrong, let us start at the beginning on your overall philosophy as to the use of corporal punishment.

As you have testified, you believe that it is necessary to maintain discipline in the school.

Mr. ARMSTRONG. Are you asking me can schools run without it?

Senator SPECTER. Well, what I would like to explore with you for a few minutes is your experience in the operation of schools, generally. Can they run without it, or would they be substantially worse or less efficient without it?

And then, to give you the overall framework, to what extent, in your experience, in your judgment, does the corporal punishment improve the discipline of the school, and how do you do it within reasonable bounds which you have described. You have already testified that you do not agree with the brutalization which has been referred to in earlier testimony. So I am trying to get the parameter as you see it, and the benefits that you see, based on the experience that you have had. Have you been a principal/teacher for some 14 years?

Mr. ARMSTRONG. Yes.

Senator SPECTER. Well, you have been exposed to a fair amount of misconduct by students in that period of time.

Mr. ARMSTRONG. Yes.

Senator SPECTER. But your overall feeling is that it is a useful and appropriate tool for discipline in the school system?

Mr. ARMSTRONG. Yes, sir, I think the biggest difference comes when you get a student who stands up and tells you openly, "I am not going to do it. You are not going to make me do it."

Senator SPECTER. What is the oldest level that you have instructed, Mr. Armstrong?

Mr. ARMSTRONG. It would be the seventh grade, which would run about 13, maximum 14, and then for 5 years, I was an assistant principal in a facility that was kindergarten through ninth grade.

Senator SPECTER. How about corporal punishment for high school students? Some of the students are bigger than you are.

Mr. ARMSTRONG. I do not see where that is going to be necessarily an effective tool there, at the senior high level.

Senator SPECTER. Do you think it has a limit through the ninth grade?

Mr. ARMSTRONG. Well, there again, it would depend upon the student.

Senator SPECTER. There must be situations where the student has taken the paddle away from the principal; there have to have been those.

Mr. ARMSTRONG. Again, I think, just like when you decide whether you are going to administer one lick or smack or whatever, or two, it is going to depend upon the student, the behavior, and the physical stature, and this type of thing. And I do not think that you can just say that automatically, at the 9th or 10th grade, it is going to be stopped.

Senator SPECTER. Well, where would you stop it, at what level of the school system?

Mr. ARMSTRONG. I would not abolish it at any level.

Senator SPECTER. You would not abolish it at any level.

Mr. ARMSTRONG. No.

Senator SPECTER. College?

Mr. ARMSTRONG. I would not draw the line there. I think if you use the guidelines——

Senator SPECTER. College?

Mr. ARMSTRONG. Well, I am talking public schools that the boards control, not colleges——

Senator SPECTER. Through the high school level, then?

Mr. ARMSTRONG. I do not think anybody favors any type of thing like that. Again, when you get up to maybe your 17- and 18-year-olds, maybe it could be abolished, and you would not even notice it at the senior high school level. But schools, yes, they can function without them. There are alternative methods. Some of the alternative methods work with students, and some do not, and I think you still need that one tool. The fact that we have gone 1 year without it in West Virginia, I think, taught the teachers that they can do without it.

Senator SPECTER. Well, you have been an administrator in the schools for 14 years. You had it for 12 years; you were without it for 1 year after the West Virginia Supreme Court came down with the decision, and then you had it back again in a modified form, for a year.

Mr. ARMSTRONG. Yes.

Senator SPECTER. How did the schools function in the year that it was illegal?

Mr. ARMSTRONG. In my schools—the students did not know that it was illegal. They are a rural area, and they just did not realize that.

Senator SPECTER. Well, you testified that some of the students said there is nothing you can do about it.

Mr. ARMSTRONG. OK. This was toward the end of the year, more or less, when the word did get out, and then last year, and then this year, in one class in particular, our sixth grade class in one of our schools, I have seen it a lot more. In a conversation I had 2 weeks ago with a father—I left a message for him to call me when he got home from work, and his wife called him, and he called me from work, and he said, "I think you ought to paddle him, and he will straighten up."

I said, "Gilbert, I cannot do that. You know that I have to wait"—there is a 12-hour waiting period; in the modifications of the new bill, you must wait 12 hours.

He said, "Well, I don't care how long you have to tell him. You're going to have to do it. I'll try this weekend to get him straightened out. But if I don't think I have succeeded, I will send

you a note on Monday, and you can give him his notice and take care of him Tuesday."

Senator SPECTER. Why don't you tell the father to do the whipping?

Mr. ARMSTRONG. I do not tell parents what to do with their children.

Senator SPECTER. Well, the parent is telling you what to do. He is telling you to do the paddling.

Mr. ARMSTRONG. He said, "Do you think it deserves a paddling?"

I said, "I am telling you what is going on at school. You determine what is best for your situation. And if we have any more trouble out of him, then I will give him his 12-hour notice."

I would not, in that situation—for example, he was saying, "I will take care of him this weekend and send him back to you Monday. If I do not think I got the message across, you do it again on Tuesday"—I would not have done that, because he probably got a paddling when he got home that weekend, and I would not——

Senator SPECTER. Did you ask if he got a paddling?

Mr. ARMSTRONG. No, I did not ask.

Senator SPECTER. Would you ever inflict corporal punishment if the parent objected to it?

Mr. ARMSTRONG. No, sir.

Senator SPECTER. If the parent said "No," you just would not do it?

Mr. ARMSTRONG. No, sir. I would send him home.

Senator SPECTER. And you believe that the corporal punishment ought to be limited to the kind of an instrument which you have described—you would not agree——

Mr. ARMSTRONG. I would not use razor straps and hickory sticks and baseball bats.

Senator SPECTER. So you would limit it to the type of an instrument which you have described?

Mr. ARMSTRONG. Yes, and I would control it through the office. Except when I—supervising two schools, I have to change my policy a little bit, but in the previous years, I have had a standing policy that if a student is going to be paddled, it will be in my presence, or I will do it, one or the other.

Senator SPECTER. When you do it, is somebody else present?

Mr. ARMSTRONG. Always.

Senator SPECTER. An adult?

Mr. ARMSTRONG. Yes.

Senator SPECTER. And what is the maximum number of whacks that you have ever inflicted?

Mr. ARMSTRONG. Four.

Senator SPECTER. Thank you very much, Mr. Armstrong.

[The prepared statement of Mr. Armstrong follows:]

Prepared Statement of Paul V. Armstrong

The WV Supreme Court ruled in June of 1982 that corporal punishment by use of any device other than the open hand violated the WV Code sections dealing with child abuse.

WV Code 49-1-3 defines an "abused child" as follows: "Whose parent, guardian or custodian inflicts or attempts to inflict or allows to be inflicted (as a result of inadequate supervision), physical injury or substantial emotional injury upon the child which endangers the present physical or mental health of such child or inflicts, attempts to inflict, or knowingly allows to be inflicted sexual abuse upon the child."

In response to this decision several bills were introduced into the WV Legislature in 1983. Of those bills, one was passed that would permit corporal punishment under certain conditions, procedures and regulations. (Copy attached)

Several provisions of this bill are quite objectionable. These provisions were inserted by the WV Senate in an attempt to kill the bill in the last week of the legislative session. These provisions are listed below:

1. "only as a last resort": This statement almost kills implementation due to the possible literal interpretation of last resort. It appears this section requires school suspension prior to paddling. Parents object strongly to this idea.

2. "a specific designee": Allows only one other person beside the principal to administer corporal punishment.

3. "at least twelve hour prior to administering corporal punishment": Any correction of misbehavior should be done as close to the misbehavior as possible.

4. "identified as handicapped, learning, hearing, mentally or behaviorally disabled": This creates a double standard for application of disciplinary measures. Anytime you have a double standard you create several other problems.

Protection for the child is included in the bill in the following sections:

A. Due process is granted and the student must be given the opportunity to explain his/her behavior.

B. Punishment is administered without anger or malice and must be suitable to the pupil's age, mental and physical condition and is applied without discrimination.

C. Adult professional employee required to witness the punishment.

D. Parents may petition in writing exemption from corporal punishment if physician provides a certificate supporting the exemption.

During the 1984 legislative session the WVAESP supported legislation that would correct the problem areas designated previously. This legislation passed the House of Delegates but failed to be acted upon by the Senate.

On the day of the vote taken by the House of Delegates an informal poll was taken of 16 pages working on the floor of the House. Without dissention, the pages (age 6-16) supported the use of corporal punishment. During the time of the bills progress through the House, a local newspaper, Charleston Daily Mail, took public opinion polls on this piece of legislation. On three separate occasions corporal punishment was favored by 69% to 85% of those polled.

I do not see a need for federal legislation in this area. Prior to the WV Supreme Court's decision striking corporal punishment some counties had already

adopted local policies prohibiting paddling. I believe this issue should be left to the state and local authorities to decide.

This committee should be aware that principals and teachers who support corporal punishment do not see it as "the method of correction" but only as one alternative to use. It is used only after other methods have failed. My personal practice generally requires at least three visits to the office and a prior conversation with the parents before resorting to using a paddle.

Without the use of corporal punishment I have witnessed an increase in students talking back to the teachers, making the remark, "you can't touch me" and even "I don't want to, what are you going to do about it?" When asked why he gave dog food to a first grader and told him it was candy, the student's response was, "because I knew you couldn't paddle me."

One result of the Court Decision and Legislative Action has been increased suspensions from school. Some schools have in-school suspensions but others do not have adequate staff or facilities to create in-school suspension, thus they must send the students home. When confronted with this alternative (suspension) the parents in our district respond by saying, "Why don't you paddle him/her?" I have had more negative parental reaction to suspension in two years than I have had with paddling in the previous eight as a school administrator.

Corporal punishment is supported by the West Virginia PTA, the West Virginia Education Association as well as our principals' association. Proof of this is their testimony February 2, 1984 before the WV House Judiciary Committee.

I do not believe administering corporal punishment for fighting teaches agression anymore than I believe receiving a speeding ticket teaches you to be a race car driver. I admit that in the past individuals may have been harmed physically or mentally by corporal punishment. However, I believe with the proper controls corporal punishment can be an effective disciplinary tool.

Federal legislation cannot cure all of society's problems. It has been determined that smoking can be hazardous to your health, but we still have tobacco. It has been determined that drug use, primarily alcohol, plays a large part in fatal accidents, but we still have alcoholic beverages. It has been determined that driving an automobile in a reckless manner causes many highway deaths, but we still have automobiles.

Mr. Chairman, I encourage this committee to leave the issue of corporal punishment to state and local authorities.

Attached you will find a copy of enrolled House Bill 1039 which allows corporal punishment in WV schools, a valentine I received from a kindergarten student and copies of resolutions passed by the West Virginia Association of Elementary School Principals and the West Virginia Education Association.

Motion was made by John Ritchey and seconded by Okey Moore that the Proposed Budget for 1984-85 be adopted. Motion carried.

10) Adoption of Resolutions

Patsy Hill, Barbara Porter, John Stallings, and Craig Hutchinson, Chairperson, compose the Resolutions Committee.

Resolution # 1: State Board Policy #2436.10
"Participation in Extra-Curricular Activities"

WHEREAS, the West Virginia Association of Elementary School Principals has always encouraged academic excellence in education, and,
WHEREAS, State Board Policy #2436.10 demands a 2.0 minimum grade point average for participation in any extra-curricular activity,
BE IT THEREFORE RESOLVED, that the WVAESP whole-heartedly supports State Board Policy #2436.10,
BE IT FURTHER RESOLVED, that a copy of this resolution be forwarded immediately to the State Superintendent and appropriate Department Heads, the President of West Virginia Association of Secondary School Principals, and the Chairperson of WVASMO.

Motion was made by Craig Hutchinson and seconded by Benjamin Horton that Resolution # 1 be adopted. Motion carried.

Resolution # 2: "Corporal Punishment"

WHEREAS, the WVAESP interprets the twelve hour waiting period prior to the administering corporal punishment as being ineffective and potentially detrimental to the individuals involved due to time lapsed between infraction and consequence, and,
WHEREAS, a parent can issue a physician's statement prohibiting corporal punishment, and,
WHEREAS, corporal punishment is more effective when administered by the person directly responsible for the supervision of those involved at the time of their infraction,
BE IT THEREFORE RESOLVED, that the WVAESP support the deletion of the following items from the Corporal Punishment Bills SB 236 and HB 1281:

- twelve hour waiting period prior to administration of corporal punishment.
- exemption of select students by virtue of their impairments.
- authorization of single designee other than the building principal to administer corporal punishment.
- exemption of service personnel from supervision of students.
- striking the words "only as a last resort" from the bill.

BE IT FURTHER RESOLVED, that a copy of this resolution be forwarded immediately to the Governor, Legislative Leaders, State Superintendent, and appropriate Department Heads.

West Virginia Education Association
Delegate Assembly

Resolutions

D-8: School Discipline and Suspension

WVEA believes that discipline is essential in the promotion of optimum learning; it, therefore, believes that teachers and administrators should develop consistent, fair and equitable discipline policies and execute these policies in an equitable manner. WVEA holds that suspension from school should be used only after other remedies have been exhausted and due process has been guaranteed, but that no student should be permitted to repeatedly interrupt the education of his/her peers. We further believe that corporal punishment should be retained as an optional tool of discipline to be used in appropriate circumstances with provisions for proper protection against physical abuse.

(Adopted 1980; amended 1982, 1983)

ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 1039

(By Mrs. Rogers and Mr. Whitlow)

[Passed March 12, 1983; in effect ninety days from passage.]

AN ACT to amend and reenact section one, article five, chapter eighteen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to authority, rights and responsibilities of school personnel; authority of school principals to administer corporal punishment; requiring the state board of education and county boards of education to adopt rules and regulations regarding corporal punishment; governing and permitting the administration of corporal punishment by open hand and paddle; and limiting imposition of corporal punishment.

Be it enacted by the Legislature of West Virginia:

That section one, article five, chapter eighteen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 5. AUTHORITY; RIGHTS; RESPONSIBILITY.

§18A-5-1. Authority of teachers and other school personnel; exclusion of pupils having infectious diseases; suspension or expulsion of disorderly pupils; authority of principals to administer corporal punishment.

1 The teacher shall stand in the place of the parent or

guardian in exercising authority over the school, and shall have control of all pupils enrolled in the school from the time they reach the school until they have returned to their respective homes, except that where transportation of pupils is provided, the driver in charge of the school bus or other mode of transportation shall exercise such authority and control over the children while they are in transit to and from the school. Subject to the rules of the state board of education, the teacher shall exclude from the school any pupil or pupils known to have or suspected of having any infectious disease, or any pupil or pupils who have been exposed to such disease, and shall immediately notify the proper health officer, or medical inspector, of such exclusion. Any pupil so excluded shall not be readmitted to the school until such pupil has complied with all the requirements of the rules governing such cases, or has presented a certificate of health signed by the medical inspector or other proper health officer. The teacher shall have authority to suspend any pupil guilty of disorderly, refractory, indecent or immoral conduct, and the district board of education may expel or exclude any such pupil if, on investigation, the conduct of such pupil is found to be detrimental to the progress and the general conduct of the school.

The principal shall have the authority to administer moderate corporal punishment by means of the open hand or a paddle subject to the following restrictions:

(1) Corporal punishment should be administered only as a last resort after use of alternative methods of discipline have failed to correct the inappropriate pupil behavior;

(2) Pupils are informed of the rules and regulations that govern the school;

(3) The pupil is informed of the school rule or rules allegedly violated and is given an opportunity to explain his or her behavior prior to the administration of corporal punishment;

(4) Punishment is administered without anger or malice. The amount of physical force used is not wanton or in excess

of the offense, is suitable to the pupil's age and mental and physical conditions and is applied without discrimination;

(5) The punishment is administered by the school principal or by a specific designee authorized by the principal to administer such punishment and in either case in the presence of another adult professional employee and not in the presence of another pupil;

(6) The punishment is administered by use of the open hand or a paddle to the buttocks;

(7) A report which includes a description of the pupil's conduct prompting the use of corporal punishment and the name of the witness is attempted to be made informally by telephone or notice sent with the child to the parent or guardian at least twelve hours prior to administration of the corporal punishment and is made orally in the school office by the end of the school day and a written report is filed in the school office within twenty-four hours of the incident;

(8) The parent or guardian of the pupil is notified in writing of each instance of corporal punishment within three school days;

(9) Each school principal shall be responsible for the maintenance of discipline in his school;

(10) Corporal punishment shall not be administered to a pupil: (a) identified as handicapped, learning, hearing, mentally, or behaviorally disabled; or (b) whose parent has petitioned in writing to the school principal that corporal punishment not be administered to the pupil and attached a certificate from a physician that by reason of a physical or emotional condition the pupil should not be subjected to corporal punishment; or (c) if medical information available to school authorities indicates that the pupil should not be subjected to corporal punishment.

The West Virginia board of education and county boards of education shall adopt policies consistent with the provisions of this section encouraging the use of alternatives to corporal punishment, providing for the training of school personnel in

alternatives to corporal punishment and for the involvement of parents and guardians in the maintenance of school discipline.

For the purpose of this section: (1) "Pupil" shall include any child, youth, or adult who is enrolled in any instructional program or activity conducted under board authorization and within the facilities of or in connection with any program under public school direction: *Provided,* That in the case of adults the pupil-teacher relationship shall terminate when the pupil leaves the school or other place of instruction or activity; (2) "teacher" shall mean all professional educators as defined in section one, article one, chapter eighteen-a of this code and shall include the driver of a school bus or other mode of transportation.

Teachers shall exercise such other authority and perform such other duties as may be prescribed for them by law or by the rules of the state board of education not inconsistent with the provisions of this chapter and chapter eighteen.

Senator SPECTER. I would like now to call our next witness, Dr. Thomas Harper, assistant superintendent, District of Columbia Public Schools.

Dr. Harper, we appreciate your having joined us here. As it is our practice, your full statement will be made a part of the record, and we would appreciate it, as with the other witnesses, if you would summarize. If you would start by giving us your educational background and your experience level, we would appreciate that.

STATEMENT OF DR. THOMAS HARPER, ASSISTANT SUPERINTENDENT, DISTRICT OF COLUMBIA PUBLIC SCHOOLS, WASHINGTON, DC

Dr. HARPER. Thank you, Mr. Chairman.

I have been a part of the D.C. public school system for the last 22 years or so. I grew up in Detroit, MI, went to public schools there. I did some student teaching in Houston, TX. I have worked here in the District as a teacher, as an assistant principal, as a principal, and now as an assistant superintendent.

I would like to read part of my statement to you for the record, sir.

Senator SPECTER. Please, do.

Dr. HARPER. Mr. Chairman and members of the committee, for the record, my name is Thomas Harper, and I am the assistant superintendent for Region A in the D.C. public school system.

I am extremely pleased to join you here this morning to discuss the issue of corporal punishment.

At the outset, let me state that the District of Columbia Board of Education has always prohibited corporal punishment. However, it was not until 1972 that the board attempted, through its rules, to define corporal punishment.

Corporal punishment is defined as the intentional use of physical force upon a student as punishment for any alleged offense or behavior, or the use of physical force in an attempt to modify behavior, thoughts, or attitudes of a student.

The rules go on to state that use of corporal punishment in any form is strictly prohibited in the public schools. Permission to administer corporal punishment shall not be sought or accepted from any parent, guardian, or school official.

Although my personal philosophy of student discipline is completely in line with the board's rule, it has not always been. Early in my own teaching career, I was of the belief that the paddle was essential to maintaining order in the classroom. Not only did I use the paddle, but in the 1960's, many teachers felt it to be indispensable.

Senator SPECTER. If then, Dr. Harper, why not now?

Dr. HARPER. Mr. Chairman, if I might finish, I think perhaps I can shed some light on it.

Senator SPECTER. All right.

Dr. HARPER. The goal of disciplining students is to instill in them self-discipline and respect for mankind. I learned, after several years of teaching, that to simply paddle a student was to reinforce in him the notion that the use of physical force is necessary in interactions with others, especially when you feel out of control.

Physical punishment might provide a temporary solution; however, it ultimately reinforces the internalization of values that I believe are detrimental.

If the development of self-discipline and respect for mankind are viewed as goals of education, I think, then, that there are a number of alternatives to corporal punishment that emerge. You can be an effective teacher without using corporal punishment if you have sound classroom management techniques, as an example. A teacher should be prepared every day for every class. A teacher must know his subject matter and have daily lesson plans. A teacher should have clearly defined daily procedures. This process should be routine. Further, students will respect teachers who are fair, firm, and consistent. Although it may appear to be an intangible, a teacher's reputation for firm and fair treatment serves as a deterrent to many discipline problems.

As a former teacher, assistant principal, and principal, I can assert that building tone begins with the principal. Where you have a strong principal, and the goals and objectives of the school are clear to both staff and students, less disciplinary problems emerge. A principal must establish the tone for a school building. It should be humane, it should generate a sense of school pride in the students, and everyone should be clear that the purpose for being there is the education of the students.

In spite of your best efforts, there are going to be some students for whom strong discipline is needed. With the deterioration of the family structure, many youngsters come to school with no notion of discipline. In spite of this, I do not advocate corporal punishment

as the means for reaching them. Instead, I suggest that you involve these and other students in developing rules for appropriate behavior and, to the extent possible, have some flexibility in this process; involve them in determining appropriate punishments. I believe in affording students due process, but I also believe in using suspensions, detentions, and curtailing of students' privileges to participate in activities as alternatives to corporal punishment.

Oftentimes, students act out because they are trying to get a teacher's attention. Teachers should know their students and, where possible, know their parents. Communicating to even the toughest students that one cares about them will go a long way in enhancing the teacher's ability to discipline students without the use of force.

Finally, one must realize that not every student can be effectively disciplined. There are some schools for whom the schools may need to seek outside assistance and finally, alternative education programs. Mental health and human relations agencies may need to be called upon in developing an effective approach to reaching difficult students. If this does not work, relocating students to nontraditional learning environments may be called for. School systems must ensure that teachers are trained in constructive procedures.

In conclusion, let me reiterate that it is my belief that corporal punishment reinforces negative behavior, rather than changes it. I think that teachers currently have available to them more appropriate alternatives.

At this point, sir, I would be very happy to answer any questions.

[The prepared statement of Dr. Harper follows:]

PREPARED STATEMENT OF DR. THOMAS HARPER

GOOD MORNING, MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE. FOR THE RECORD, MY NAME IS THOMAS HARPER AND I AM ASSISTANT SUPERINTENDENT FOR REGION A, DISTRICT OF COLUMBIA PUBLIC SCHOOLS. I AM EXTREMELY PLEASED TO JOIN YOU HERE THIS MORNING TO DISCUSS THE ISSUE OF CORPORAL PUNISHMENT.

AT THE OUTSET, LET ME STATE THAT THE DISTRICT OF COLUMBIA BOARD OF EDUCATION HAS ALWAYS PROHIBITED CORPORAL PUNISHMENT. HOWEVER, IT WAS NOT UNTIL 1972 THAT THE BOARD ATTEMPTED, THROUGH ITS RULES, TO DEFINE CORPORAL PUNISHMENT.

> CORPORAL PUNISHMENT IS DEFINED AS THE INTENTIONAL USE OF PHYSICAL FORCE UPON A STUDENT AS PUNISHMENT FOR ANY ALLEGED OFFENSE OR BEHAVIOR, OR THE USE OF PHYSICAL FORCE IN AN ATTEMPT TO MODIFY BEHAVIOR, THOUGHTS, OR ATTITUDES OF A STUDENT.

THE RULES GO ON TO STATE THAT:

> USE OF CORPORAL PUNISHMENT IN ANY FORM IS STRICTLY PROHIBITED IN THE PUBLIC SCHOOLS....PERMISSION TO ADMINISTER CORPORAL PUNISHMENT SHALL NOT BE SOUGHT OR ACCEPTED FROM ANY PARENT, GUARDIAN OR SCHOOL OFFICIAL.

ALTHOUGH MY PERSONAL PHILOSOPHY OF STUDENT DISCIPLINE IS COMPLETELY IN LINE WITH THE BOARD'S RULE, IT HAS NOT ALWAYS BEEN. EARLY IN MY OWN TEACHING CAREER, I WAS OF THE BELIEF THAT THE "PADDLE" WAS ESSENTIAL TO MAINTAINING ORDER IN THE CLASSROOM. NOT ONLY DID I USE THE PADDLE, BUT IN THE 1960'S, MANY TEACHERS FELT IT TO BE INDISPENSABLE.

THE GOAL OF DISCIPLINING STUDENTS IS TO INSTILL IN THEM SELF-DISCIPLINE AND RESPECT FOR MANKIND. I LEARNED, AFTER SEVERAL YEARS OF TEACHING, THAT TO SIMPLY PADDLE A STUDENT WAS TO REINFORCE IN THEM THE NOTION THAT THE USE OF PHYSICAL FORCE IS

NECESSARY IN INTERACTIONS WITH OTHERS, ESPECIALLY WHEN YOU FEEL OUT OF CONTROL. PHYSICAL PUNISHMENT MIGHT PROVIDE A TEMPORARY SOLUTION; HOWEVER, IT ULTIMATELY REINFORCES THE INTERNALIZATION OF VALUES THAT I BELIEVE ARE DETRIMENTAL.

IF THE DEVELOPMENT OF SELF-DISCIPLINE AND RESPECT FOR MANKIND ARE VIEWED AS GOALS OF EDUCATION, I THINK, THEN, THERE ARE A NUMBER OF ALTERNATIVES TO CORPORAL PUNISHMENT THAT EMERGE. YOU CAN BE AN EFFECTIVE TEACHER WITHOUT USING CORPORAL PUNISHMENT IF YOU HAVE SOUND CLASSROOM MANAGEMENT TECHNIQUES. AS AN EXAMPLE, A TEACHER SHOULD BE PREPARED EVERY DAY FOR EVERY CLASS. A TEACHER MUST KNOW THEIR SUBJECT MATTER AND HAVE DAILY LESSON PLANS. A TEACHER SHOULD HAVE CLEARLY DEFINED DAILY PROCEDURES. STUDENTS MUST KNOW WHAT IS EXPECTED OF THEM IN THE CLASSROOM EACH DAY. THIS PROCESS SHOULD BE ROUTINE. FURTHER, STUDENTS WILL RESPECT TEACHERS WHO ARE FAIR, FIRM AND CONSISTENT. ALTHOUGH IT MAY APPEAR TO BE AN INTANGIBLE, A TEACHER'S REPUTATION FOR FIRM AND FAIR TREATMENT SERVES AS A DETERRENT TO MANY DISCIPLINE PROBLEMS.

AS A FORMER TEACHER, ASSISTANT PRINCIPAL AND PRINCIPAL, I CAN ASSERT THAT BUILDING TONE BEGINS WITH THE PRINCIPAL. WHERE YOU HAVE A STRONG PRINCIPAL, AND THE GOALS AND OBJECTIVES OF THE SCHOOL ARE CLEAR TO BOTH STAFF AND STUDENTS, LESS DISCIPLINARY PROBLEMS EMERGE. A PRINCIPAL MUST ESTABLISH THE TONE FOR A SCHOOL BUILDING. IT SHOULD BE HUMANE, IT SHOULD GENERATE A SENSE OF SCHOOL PRIDE IN THE STUDENTS, AND EVERYONE SHOULD BE CLEAR THAT THE PURPOSE FOR BEING THERE IS THE EDUCATION OF THE STUDENTS.

IN SPITE OF YOUR BEST EFFORTS, THERE ARE GOING TO BE STUDENTS FOR WHOM STRONG DISCIPLINE IS NEEDED. WITH THE DETERIORATION OF THE FAMILY STRUCTURE, MANY YOUNGSTERS COME TO SCHOOL WITH NO NOTION OF DISCIPLINE. IN SPITE OF THIS, I DO NOT ADVOCATE CORPORAL PUNISHMENT AS THE MEANS FOR REACHING THEM. INSTEAD, I SUGGEST THAT YOU INVOLVE THESE AND OTHER STUDENTS IN DEVELOPING RULES FOR APPROPRIATE BEHAVIOR AND, TO THE EXTENT YOU HAVE SOME FLEXIBILITY, INVOLVE THEM IN DETERMINING APPPOPRIATE PUNISHMENTS. I BELIEVE IN AFFORDING STUDENTS DUE PROCESS, BUT I ALSO BELIEVE IN USING SUSPENSIONS, DETENTIONS AND CURTAILING OF

STUDENTS' PRIVILEGES TO PARTICIPATE IN ACTIVITIES AS ALTERNATIVES TO CORPORAL PUNISHMENT.

OFTEN TIMES, STUDENTS ACT OUT BECAUSE THEY ARE TRYING TO GET A TEACHER'S ATTENTION. TEACHERS SHOULD KNOW THEIR STUDENTS AND, WHERE POSSIBLE, THEIR PARENTS. COMMUNICATING TO EVEN THE TOUGHEST STUDENT THAT YOU CARE ABOUT HIM WILL GO A LONG WAY IN ENHANCING YOUR ABILITY TO DISCIPLINE STUDENTS WITHOUT THE USE OF FORCE.

FINALLY, ONE MUST REALIZE THAT NOT EVERY STUDENT CAN BE EFFECTIVELY DISCIPLINED. THERE ARE SOME STUDENTS FOR WHOM THE SCHOOLS MAY NEED TO SEEK OUTSIDE ASSISTANCE AND, FINALLY, ALTERNATIVE EDUCATION PROGRAMS. MENTAL HEALTH AND HUMAN RELATIONS AGENCIES MAY NEED TO BE CALLED UPON IN DEVELOPING AN EFFECTIVE APPROACH TO REACHING DIFFICULT STUDENTS. IF THIS DOES NOT WORK, RELOCATING STUDENTS TO NON-TRADITIONAL LEARNING ENVIRONMENTS MAY BE CALLED FOR. SCHOOL SYSTEMS MUST ENSURE THAT TEACHERS ARE TRAINED IN CONSTRUCTIVE DISCIPLINE PROCEDURES.

IN CONCLUSION, LET ME REITERATE THAT IT IS MY BELIEF THAT CORPORAL PUNISHMENT REINFORCES NEGATIVE BEHAVIOR, RATHER THAN CHANGES IT. I THINK THAT TEACHERS CURRENTLY HAVE AVAILABLE TO THEM MANY MORE APPROPRIATE ALTERNATIVES.

AT THIS POINT, I WOULD BE HAPPY TO ANSWER ANY QUESTIONS.

Senator SPECTER. Dr. Harper, essentialy, what you are saying is that since the sixties, when you used corporal punishment yourself, you have changed your mind.

Dr. HARPER. That is correct, sir.

Senator SPECTER. You say that is correct?

Dr. HARPER. That is correct.

Senator SPECTER. Do you think that the decision as to whether corporal punishment ought to be used should be left to the local school board, as opposed to having any Federal law on the subject?

Dr. HARPER. It would be my opinion, Mr. Chairman, that this should be left in the local jurisdiction.

Senator SPECTER. So, if a local jurisdiction wanted to have corporal punishment, as Principal Armstrong has outlined it, that ought to be left to be done?

Dr. HARPER. I would say yes to that question.

Senator SPECTER. Mr. Armstrong, you heard the testimony of Mrs. Gaspersohn and Shelly Gaspersohn. The subcommittee would be interested in your judgment, if you would care to voice it, but only if you are willing to do so, as to whether, based on your experience and expertise in the field, that you think Shelly Gaspersohn was treated properly or improperly.

Mr. ARMSTRONG. Based on what we heard this morning and not knowing the other side—maybe I am sticking my neck out by even commenting on it—but I think the punishment in no way suited the crime. If she, in fact, had a clean record on prior disciplinary matters, I do believe, and I believe under West Virginia law, that the individual responsible would have been held responsible and accountable for that.

Senator SPECTER. Beyond the question as to punishment fitting the crime, do you think it appropriate under any circumstance for the type of a board to be used with the kind of force which Shelly Gaspersohn described as an appropriate form of corporal punishment?

Mr. ARMSTRONG. I think she was treated very inappropriately.

Senator SPECTER. Dr. Hyman, what do you think of the modulated approach that Principal Armstrong has used?

Dr. HYMAN. Well, Principal Armstrong seems like a very decent fellow, and I agree with him that what was done to Shelly was unfair and unreasonable. However, yesterday, when I learned that someone from West Virginia would be testifying, I went to look at our files on West Virginia. And I can assure Mr. Armstrong that cases such as Shelly's have occurred in West Virginia and in other States across the country, especially in the South. For example, here is our stack of press clippings of cases in West Virginia.

Senator SPECTER. Dr. Hyman, what do you think of the case that Principal Armstrong recites, with the third-grader, the "Merry Christmas" story?

Dr. HYMAN. Well, many people say that love and pain can be associated. I think it is a mixed message, and I think what it does is to perpetuate the concept in our country that hitting is an acceptable way to change behavior. Now, when Principal Armstrong mentioned that their polls indicated that many people, including children, believe that corporal punishment is appropriate, he is only reflecting a lack of knowledge about where this whole practice

comes from. While I will refrain from going into a long dissertation about that here basically, I think he used a very good example that illustrates my point. He said we know that cigarette smoking can cause problems, and yet, we still do it. Yet, the people who look at the data on cigarette smoking stop smoking. If they look at the data, and they are convinced that the data is accurate and that they are going to get lung cancer, as all the data seems to indicate, then they do stop smoking, and——

Senator SPECTER. Some do not, Dr. Hyman.

Dr. HYMAN. I know. And that is because they are not really believing the data that they are going to die. Many of them I have talked to—and I am a psychologist in private practice—many of them say, "Well, when my time comes, I am going to die anyway." They have rationalizations.

But when I have talked to people who have stopped smoking—and there have been a number of studies on that—it is usually because they are convinced that it is going to harm them——

Senator SPECTER. Dr. Hyman, let us come back to the modulated approach that Principal Armstrong is using. What is your evaluation of that?

Dr. HYMAN. My evaluation is that it is inappropriate. All of the research—and I have not even presented all the data—supports Dr. Harper's position that corporal punishment is ineffective; it teaches that violence is a way to solve problems; and it only temporarily suppresses behavior. The end result usually is displaced aggression, which either comes out against property or other people. But the main point that bothers me most about what Principal Armstrong said is that he seems to be using fear of punishment as a way of inculcating into the young children in West Virginia what should be done and what should not be done. And the purpose of education in a democracy is to teach children to do the appropriate thing because it is appropriate.

And I do not want to pick on West Virginia, because there are many other states, but I happened to testify in the West Virginia case of *Smith* v. *the State Board of Education,* which ended in the State Supreme Court abolishing the use of any instruments for Corporal punishment. So I know a little bit about West Virginia. One of the aides of the West Virginia Education Association, Kathy Smith, was fined 1 week's pay because she publicly, as a citizen, spoke against the West Virginia Education Association's bill, which was to reinstate corporal punishment. So she was punished by lack of salary. The case, *Smith* v. *Board of Education,* involved the abuse of a special education child. I just do not agree that corporal punishment is a good practice. While it temporarily suppresses behavior, in the long run, it is a very harmful approach. Yet people in our country will vote for it. They believe in it in keeping with the tradition of what has been done to them; there is research on this, also. But basically, people do what was done to them until they are taught more appropriate methods.

Senator SPECTER. Dr. Hyman, do you think it is a matter which ought to be left to individual States and individual school boards, or would you favor a prohibition on the national level?

Dr. HYMAN. I personally would favor a prohibition on the national level. I am somewhat pessimistic that that will happen however.

It is not going to happen in the courts unless a substantive due process case reaches the Supreme Court. And the reason I favor it at a national level is that I have seen too many cases of abuse. I have been throughout the South and the Southwest especially, where most of it occurs. It is not an appropriate way in a democracy to educate children. And by the way, our study of the impact of the Court decision in West Virginia indicated that the use of corporal punishment decreased quite a bit without significant changes in school discipline problems. Furthermore we did do two research studies on what happens when you eliminate corporal punishment—which, for instance Los Angeles abolished, brought back, and then just recently abolished again—and all the research that we have conducted suggests that nothing drastic happens. What happens is that teachers learn alternative methods, as Mr. Armstrong said——

Senator SPECTER. Dr. Hyman, are there due process cases? Have the courts prohibited corporal punishment as violative of the U.S. Constitution?

Dr. HYMAN. Well, the Supreme Court case in *Ingraham* v. *Wright*, for which I helped write the amicus brief with Judge Gertrude Bacon, on behalf of the American Psychological Association——

Senator SPECTER. Are you a lawyer, Dr. Hyman?

Dr. HYMAN. No. I said I helped her write it; she was the author of it, of record. But it was on behalf of the American Psychological Association. So you are asking me a legal question, and I think I can comment briefly on it without being a lawyer and being accused of practicing law.

Senator SPECTER. Oh, you can comment; it is the brief-writing that I was asking about.

Dr. HYMAN. It was a social science's-type brief rather than strictly a legal brief.

In any event, that case dealt with procedural due process and cruel and unusual punishment. And again——

Senator SPECTER. Do you know if there has been a case where the courts have prohibited corporal punishment in schools on grounds of due process of law? That would seem to me to be——

Dr. HYMAN. Yes, only on substantive due process, not on procedural due process.

Senator SPECTER. Substantive due process?

Dr. HYMAN. Right. That was the *West Virginia* case. That was the first case, to my knowledge, where they——

Senator SPECTER. Did the West Virginia court rely on the constitutional provision?

Dr. HYMAN. The West Virginia State Constitution.

Senator SPECTER. No; they relied upon the child abuse statute, as Principal Armstrong said.

Dr. HYMAN. I have it right here, I have the whole case right here.

Senator SPECTER. What is the name of the case?

Dr. HYMAN. *Smith* v. *West Virginia Board of Education.*

Senator SPECTER. Is there anything that you would care to add, Mr. Armstrong?

Mr. ARMSTRONG. Yes, as soon as I find it here.

Dr. HYMAN. As I say, I am reluctant to testify as a lawyer, because I am not one.

Senator SPECTER. Is there anything you would care to add, Dr. Harper?

Dr. HARPER. Mr. Chairman, I would like to reiterate my original point, that I think children learn to live with that which they have been exposed to while they are growing up. If they are taught love, then they can learn love, and they can pass it on. This business of using physical force against one another, we find that we have far too much of that, and it is a reflection on our society in general.

I find that, where you have people who are humane and who are able to motivate and to move people in a common direction without the use of force, the training lasts a bit longer. We see it in the schoolhouse, but there are other places where this occurs. I speak about people who are participating on athletic teams, and in the military service. Both utilize a teaching process. And those persons who are motivated because they have the desire and the will and the want to do, as opposed to being forced to do something, carry out and perform at a much high level.

Senator SPECTER. Thank you very much, Dr. Harper.

Principal Armstrong, I do not really wish to make this a legal battle between you and Dr. Hyman.

Mr. ARMSTRONG. OK. On page 14, it says, "Although we have declined to address the petitioner's constitutional arguments relative to cruel and unusual punishment and substantive due process claims, we do believe * * *," and then it goes on to talk about that there is minimal due process that has to be followed. But the basis of the case is in direct reference to the West Virginia Code dealing with the definition of child abuse which is in the written portion of what I submitted, and it says that, "The West Virginia Code, 4913, defines an abused child as one whose parent, guardian, or custodian inflicts or attempts to inflict or allows to be inflicted as a result of inadequate supervision, physical injury, or substantial emotional injury upon the child which endangers the present physical or mental health of such child, or inflicts or attempts to inflict or knowingly allows to be inflicted sexual abuse upon the child." And it was based upon this—because one way of overturning that decision, the chairman of the House Judiciary Committee, Mr. Albright, suggested that the way to correct that would be just to add the sentence that "This section of the code could not be interpreted to prohibit corporal punishment in the schools." And I think with those two things, there was no substantive due process decision made.

Dr. HYMAN. The case was brought on substantive due process grounds by the Appalachian Research and Defense Fund. I will have to read this over again, but that was what the case was brought under. My understanding was that that was the issue.

Senator SPECTER. Well, we will take a look at the case, as well.

Does anybody else care to add anything at this juncture?

Dr. HYMAN. I would like to comment just briefly on alternatives. I have conducted extensive research for the National Institute of Education and contine to conduct research on alternatives. My experience has been that educators as a group are impoverished in terms of their repertoire of alternatives to corporal punishment,

and very often, corporal punishment is the first rather than the last resort. In the written testimony, I have listed a number of alternative procedures that we have found to be effective from extensive research in this area. In its deliberations, I would urge this committee to consider not only the emotional aspects of this issue—which is a problem since people say that they were hit when they were kids and it did not hurt them, which is not true, because they carry on this practice—but to look at the data, which I unfortunately have not had the opportunity to deal with extensively here, but are presented in the written testimony.

Senator SPECTER. All right. Thank you very much, Dr. Hyman, and thank you very much, Principal Armstrong and Dr. Harper, and Mrs. Gaspersohn and Miss Gaspersohn. We very much appreciate your joining us.

The hearing is concluded.

[Whereupon, at 11 a.m., the subcommittee was adjourned.]

APPENDIX

Statement on Corporal Punishment in the Schools

Submitted to the Senate Subcommittee on Juvenile Justice

by the

National Committee for Citizens in Education
410 Wilde Lake Village Green
Columbia, MD 21044
(301) 997-9300; 800-NET-WORK(638-9675)

September 30, 1984 - The 800-NETWORK hotline at the National Committee for Citizens in Education rings with a call from a small town in Missouri. A mother is calling from the Emergency Room of the local hospital. She has taken her 13-year old son there for X-rays and treatment following a severe paddling at school the day before. The offense for which he was paddled? He had lost one of his homework papers. The mother had first called the local Child Abuse Hotline for help, but was informed that they do not consider corporal punishment cases in the schools as child abuse, and do not have the authority to intervene or take action. The Child Abuse Hotline workers gave the mother the NCCE telephone number.

This is a typical example of a call received on the 800-NETWORK hotline operated by the National Committee for Citizens in Education. Since February 1983 we have received hundreds of calls from parents whose children have been subjected to severe and/or unfair corporal punishment in the public schools.

The purpose of the National Committee for Citizens in Education is to improve the education of children by mobilizing and assisting parents and citizens to strengthen public schools. NCCE is an advocate for parents and helps them gain and use information and skills to influence the quality of public education. One of NCCE's many activities is assisting parents and citizens who write or call requesting information

about laws and policies and/or assistance with school problems. The toll-free 800-NETWORK hotline is the way for parents and citizens to seek help for those problems.

Since this Project began twenty months ago, about 17% of the parent calls to the hotline have been on the subject of discipline practices of schools. About 90% of these requests relate to either corporal punishment or suspension. Both of these practices are legal and utilized in many schools across the country. But the cases which are reported to us indicate that these practices are used in ways which are counterproductive to the aims of the educational system.

The issues raised most frequently concerning corporal punishment are (1) paddlings resulting in serious bruises or other injuries, (2) paddling used not as a punishment of last resort but used frequently and for petty and trivial offenses, (3) paddling children for incidents related not to behavior but to academic performance, and (4) other physical punishments which are inappropriate, humiliating, and demeaning to children.

In cases where the paddling is severe enough to cause bruises or other injuries, parents often report to child abuse authorities, intending to place charges against the teacher or principal who inflicted the paddling. They soon learn that such incidents are not legally considered "child abuse" and cannot be investigated or acted upon by the agency. The parents may appeal to the school board charging cruel and excessive punishment; the school board members invariably back the teacher and principal and are not responsive to the parents' objections to this type of punishment.

In many schools, teachers carry their paddles attached to their belts. These teachers are accustomed to using the paddle on children for petty or trivial behavior, such as being late to class, not having the right color pencil, missing the school bus to go home, talking at lunch time, and being out of their

seat without permission. These "offenses" could easily have been corrected by reprimands or penalties much less severe and less painful than being hit with a wooden paddle, a belt or a switch. Frequent paddling creates an atmosphere of fear and intimidation among the students, afraid to speak out or express themselves for fear of the punishment which may follow.

The third area where the practice of corporal punishment works against the education of children is in cases where it is used not to deter unacceptable behavior but to punish children for their shortcomings in academic performance. Some examples of this include the paddling of all children in a second grade class who did not score 100 on a math test, paddling for neglecting to turn in homework, paddling for "wasting time" in class, and the paddling of a child who was not working up to full potential. This kind of physical punishment does not motivate children to improve academic achievement in school.

Other physical punishments reported to us by parents which are inappropriate and demeaning to the children involved are:

-- Not being allowed to go to the bathroom

-- Having hands taped to the desk to stop fidgeting

-- Tying boys together with a rope so they would stop fighting and "learn to get along"

-- Placing children in cages in the classroom or in windowless closets

-- Forcing children to lick up milk which they had spilled

-- Pulling down the shorts of a 16-year-old female student in front of the class

-- Pulling the chair out from under a child, causing him to fall on the floor.

The parents of those children who have received physical punishment call the NCCE hotline asking for suggestions about what action they should take against the abuse by teacher or principal. The experience of the Gasperson family which was recounted before the Subcommittee Hearing on October 17

demonstrates that complaints to the Superintendent and/or school board may not be successful and that bringing criminal charges of assault against the teacher or principal who hurt the child is not likely to result in a guilty verdict. NCCE encourages parents to join together to try to get local discipline policies changed to prohibit corporal punishment. Several groups have been successful in their efforts, but there are thousands of school districts where corporal punishment continues to be practiced.

We commend the Subcommittee on Juvenile Justice for holding this Hearing and urge them to consider scheduling a second day of testimony. This issue should receive more national attention so that school board members, school administrators, teachers, and parents have a better opportunity to hear the arguments for and against this disciplinary practice. After they hear impressive statements such as that prepared by Dr. Hyman, many educators may be persuaded that physical punishment has no place in our educational system.

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REPLY TO: RALEIGH

November 5, 1984

The Honorable Arlen Specter
United States Senate
Washington, D.C. 20510

RE: Gaspersohn vs.
Harnett County Board of Education and
Glenn Varney
Our File: L-1438

Dear Senator Specter:

It was with a great deal of interest that I read the news accounts of the Senate Judiciary Subcommittee hearings investigating corporal punishment in schools, and in particular the testimony of Shelly Gaspersohn and her mother Marlene Gaspersohn. I, along with C. Woodrow Teague of this law firm represented the defendant teacher in the civil action brought by the Gaspersohns. While I realize that the purpose of the subcommittee hearings was to obtain an overview of "corporal punishment" and not to deal in specific cases, after reviewing the news accounts I felt compelled to contact you in order to set the record straight.

First of all, it should be noted that Shelly Gaspersohn broke one of the fundamental rules of any school system: she skipped school with no excuse. (In actuality, she skipped because she was assisting a friend of hers locate her boyfriend,) Skipping school had been a problem for years at the high school which Ms. Gaspersohn attended, and unfortunately some of the students which had skipped found themselves in much more serious situations involving rape and drugs. Consequently, the problem of skipping school was one which caused great concern not only to the local school officials, but also to the community at large. In sum, Ms. Gaspersohn was disciplined for knowingly breaking a rule which had received considerable attention in the school.

When Ms. Gaspersohn arrived at school the day after she skipped, she was summoned to the female assistant principal's office in order to explain her unexcused absence from the day before. When she was unable to do so, she was advised that she would be assigned to "in-school suspension," a form of punishment in which offenders are placed in one classroom four days a week, and not allowed the freedoms accorded to the general student population. However, when Ms. Gaspersohn was informed that she would be assigned to ISS, she became loud and boisterous and demanded an alternative. At that point in time Glenn Varney, assistant principal, was called in to calm the situation. He advised Ms. Gaspersohn and her two classmates who were also caught skipping, that if they would just cooperate and proceed to ISS in an orderly fashion, he would do what he could to get them out early. The students were then allowed to go to all of their classes and obtain assignments for the day. After serving about three days in ISS, Ms. Gaspersohn along with the two others, sent at least two notes to Mr. Varney requesting that they be administered corporal punishment in lieu of remaining in ISS. The key point to be made here is the fact that Ms. Gaspersohn specifically requested that corporal punishment be administered. I did not see or hear anything in the news accounts which brought that fact to the attention of your subcommittee.

Mr. Varney proceeded to discuss the situation with the girls, and advised them that it was his opinion that the corporal punishment would not be appropriate for them. However, the three girls, including Ms. Gaspersohn, insisted that the paddlings be administered. Although each girl was supposed to receive nine "licks" to equal their remaining time in ISS, Mr. Varney used his better judgment and told each girl that he would only administer six "licks" each. After administering a portion of the "licks", he asked Ms. Gaspersohn and the others if they wished to continue. Each one indicated that they did.

After the paddlings, Ms. Gaspersohn said that her buttocks were bruised and quite painful, a fact not really in dispute. However, I was quite surprised to learn that Ms. Gaspersohn now insists that she "suffered neck and back spasms" as a result of the spankings. I have followed this case for over two and one-half years and this is the first time that this condition has been known to me. In addition, Dr. Erwin Hyman, a psychologist, examined Ms. Gaspersohn several months later and arrived at some astonishing conclusions indicating that she is currently suffering from post-traumatic stress syndrome. Dr. Hyman testified to that fact at the trial of this matter. Yet the only medical doctor who had an opportunity to examine Ms. Gaspersohn for this problem also testified at the trial and indicated that it was his opinion that Ms. Gaspersohn was not suffering from such syndrome, nor had she ever. This medical doctor, Dr. Robert N. Harper, psychiatrist, said that he found no evidence of any permanent disability in Ms. Gaspersohn, and felt that the protracted legal proceedings were adding to the embarrassment which was created by the initial incident. Dr. Harper also said that had Ms. Gaspersohn been suffering from a post-traumatic stress syndrome, she would not have been able to go off to college the following year, live in an apartment with other friends, perform quite well in school, and choose not to return to the home of her mother and father at the end of the school year.

At the conclusion of the trial of this matter, the jury was out only eleven minutes and returned a verdict in favor of the defenndant, Glenn Varney. As I am sure you know, corporal punishment is not against the law in North Carolina as long as it is administered with reasonable force. This jury came to the conclusion that Glenn Varney did administer said corporal punishment with "reasonable force."

In conclusion, it disturbs me that your subcommittee held hearings on this very important subject and either did not elicit testimony from a different viewpoint, or else the news media did not choose to report it. Dr. Erwin Hyman is a nationwide critic of corporal punishment and is certainly not qualified to offer an objective viewpoint on the subject. I would be more than happy to forward to you a copy of the transcript of this trial so that you and your committee can see firsthand what the real "truth" is behind the punishment of Shelly Gaspersohn.

Thank you for your consideration in this matter.

Yours truly,

Dayle A. Flammia

Dayle A. Flammia

DAF/scm

P.O.P.S.
People Opposed to Paddling of Students, Inc.

10903 Wickersham • Houston, Texas 77042
(713) 781-0643

11-10-84

Senate Committee on Juvenile Justice
Washington, DC 20510

Dear Gentlepersons:

We are working to abolish corporal punishment in Texas.

I heard about your recent hearings and would like to receive any information you have available.

Texas schools lead the nation in its use.

It is legalized child abuse and should be abolished.

Am enclosing an editorial I wrote for the Houston Chronicle.

Sincerely,

Jimmy Dunne

EXECUTIVE DIRECTOR
Jimmy Dunne

BOARD OF DIRECTORS
Philip Glass
Jack Hendrie
Father
Julian R. Tribe
Engineer
Jimmy Dunne
Teacher

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Mary Runnels
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Ron Schoenewolf
School Counselor
Lynn P. Rehm, Ph.D.
Prof. Psychology U. of Houston

LIAISON
Adah Maurer, Ph.D.
End Violence Against The Next Generation
Berkeley, California

Put the paddles away

by Jimmy Dunne

WE ALL WANT SCHOOLS in which teachers can teach and children can learn. How we can best achieve this admirable goal is another matter — a matter of controversy.

For Texans, part of the answer historically has usually included corporal punishment — "swats," "pops" or "paddling."

A 1980 survey on corporal punishment by the Department of Education Office for Civil Rights found that Texas had more incidents of corporal punishment than any other state — a total of 191,000. Florida was second with 181,000 and Georgia was third, with 71,000, during the 1979-80 school year.

Sure, whipping a kid with a board gets quick results, but at what cost? Chiropractors will testify that paddling can injure a child's spinal column. Many children have been severely bruised and even bloodied by this violence to their bottoms.

Parents of elementary-age children will tell you how paddling — or the threat of it — can affect the mental health of children. They can become emotionally disturbed, cannot sleep, and have nightmares. Many are afraid to go to school, for fear they may be paddled for forgetting their homework or being late to class.

We live in a violent society. What are the seeds of violence? Are we teaching our children that hitting is the way to solve problems? Shouldn't we be setting the example that problems can be solved through discussion, counseling and negotiation?

Recently a third-grade teacher in Wilmer paddled five students 17 times each for failure to stay at their desks. The same week a Mesquite teacher paddled 30 elementary children for not bringing their watercolors to class. The parents were justifiably upset, but the superintendent said that paddling was just part of "keeping order."

Dunne, who taught mathematics in the Houston Independent School District for 11 years, is executive director of P.O.P.S., People Opposed to Paddling of Students, which has its headquarters here.

Children should be protected from this sort of nonsense. Corporal punishment is not used to discipline students in Hawaii, Maine, Massachusetts, New Hampshire, New Jersey, Rhode Island and Vermont. Many large cities do fine without it and just this year it has been abolished in the schools of Philadelphia, Seattle and Los Angeles. Meanwhile, Texas has no guidelines for its use. Each school district makes its own policy.

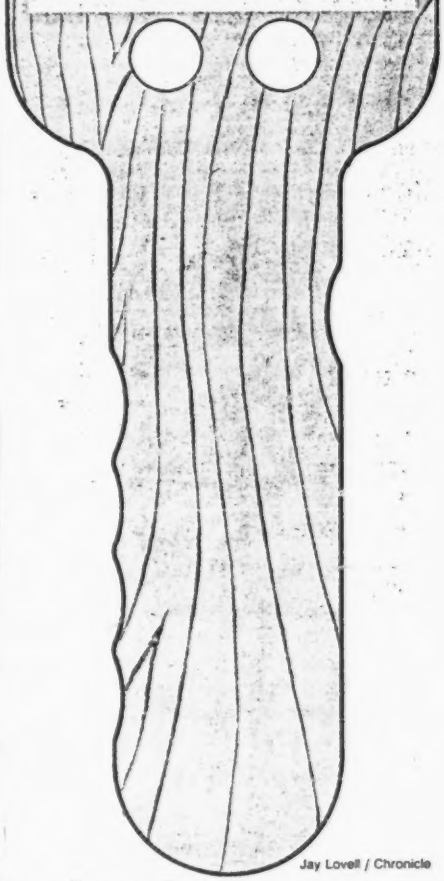
The Houston Independent School District has taken a giant leap forward by giving parents the right to check off YES or NO on enrollment cards regarding the use of corporal punishment for their children. Many districts give parents the right to prohibit the use of the paddle on their children, but some backward districts do not.

If corporal punishment is school policy, it should be used as a last resort only, and then only by administrators, not by teachers. No teacher should be judge, jury and executioner in the disciplining of a child. When corporal punishment is used, parents should be informed in advance, and all discipline problems should be recorded on discipline cards. There should be a maximum of three swats per infraction.

I believe strongly, however, that schools would be more harmonious without it. Counselors could work with problem children and detention hall would be helpful for disruptive students.

The best solution of all, of course, is to offer more training for teachers who are having trouble maintaining a good learning environment in their classrooms. Good teachers rarely have discipline problems. They know how to communicate with children and how to teach effectively. They can motivate children to want to learn. Their knowledge should be passed on to less effective teachers.

Corporal punishment is legalized child abuse. Children grow up treating others the way they are treated. We must do a better job with the next generation.



Jay Lovell / Chronicle

Houston Chronicle · 10-25-84

PADDLING

TAKE IT OUT OF THE SCHOOLS

As you read this, children in our schools are being struck by wooden paddles. If one of your neighbors hit their childen with a board, you would have them investigated for child abuse.

Corporal punishment teaches by example that hitting is the way to solve problems. This adds to the violence in our society.

Corporal punishment has been abolished in mainland Europe, and is no longer used in at least six states and many U.S. cities.

Corporal punishment is legalized child abuse and it must be stopped.

For students with discipline problems we suggest alternatives such as detention halls, parent conferences, or cleanup of grounds.

We need your financial support for printing educational materials, phone, postage, and using other forms of the media to direct our message to school personnel, elected representatives and parents.

Join us! The children need your support!

We investigate cases of corporal punishment.

ac 713 781-0643

Phone listing under P.O.P.S. People Opposed to Paddling of Students.

Donations are tax deductible.

Thanks to P.O.P.S., we are making progress toward banning corporal punishment and reducing the amount of violence in America. Here's my donation to help educate the rest of the country.

☐ $25 Member ☐ $150 Sponsor ☐ $ Donation

Name

Address

City State Zip

P.O.P.S., or PEOPLE OPPOSED TO PADDLING OF STUDENTS
10903 Wickersham, Houston, TX 77042
A non-profit organization
ac 713 781-0643 Jimmy Dunne, Executive Director